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International Labour Conference
78th Session 1991

Report III
(Parts 1, 2 and 3)

Summary of Reports

(Articles 19, 22 and 35 of the Constitution)



International Labour Office Geneva



International Labour Conference
78th Session 1991

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)

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.

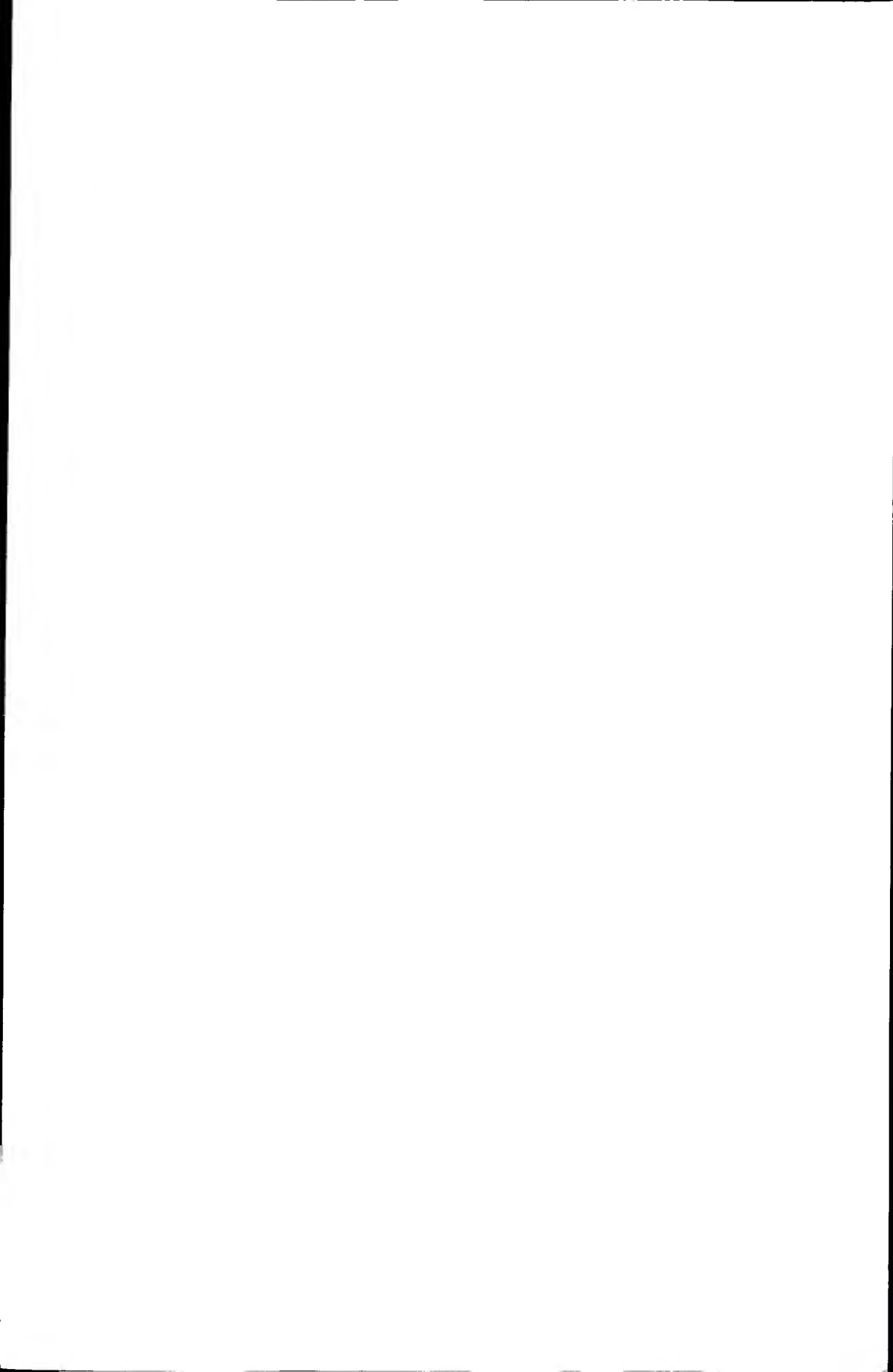
At its 204th (November 1977) Session, the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under article 22 of the Constitution:

- (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 1990.

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 | 41 | 13, 95, 105, 141 | 45 | 14, 100, 106, 111 |
| Algeria | | 13, 14, 24, 78, 87, 98 | 11, 71, 127 | 11, 62, 77, 119 |
| Angola | 45 | 12, 17, 18, 105 | 18, 27, 111 | 6, 89 |
| Antigua and Barbuda | | 29, 87, 138 | | 11, 12, 14, 81, 94, 98, 101, 105, 108 |
| Argentina | 144, 151 | 87, 107, 115 | 98 | 8, 11, 14, 22, 23, 52, 77, 78, 95, 124 |
| Australia | 160 | 87, 98, 150 | 22, 81 | 94 |
| Norfolk Island | | 122 | 11 | |
| Austria | | 95, 98, 111 | | 11, 87, 101, 124, 144 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|------------|-----------------------|--|--|---|
| Bahamas | | | | 11, 14, 22, 42, 95, 97, 98, 105, 144 |
| Bahrain | 89 | 29 | | |
| Bangladesh | | 11, 87, 98, 106, 107, 111 | 22 | 14, 27, 144 |
| Barbados | | 87, 98, 111, 115, 122, 144 | | 11, 22, 94, 95, 97, 101 |
| Belgium | 154 | 14, 29, 98, 101, 105, 111 | 8, 13, 22, 23, 55, 56, 62, 73, 87, 89, 94, 95, 97, 114, 120, | 11, 77, 115, 124 |
| Belize | | 8, 22, 26, 95, 98, 101, 115 | 81, 87, 94 | 5, 11, 97 |
| Benin | | 29, 105 | 143 | 6, 41 |
| Bolivia | | 1, 20, 30, 87, 107 | 77, 78, 98 | |
| Botswana | | | | 14 |
| Brazil | | 5, 11, 42, 53, 94, 105, 111, 117, 122, 125, 131, 148 | 12, 14, 22, 95, 98, 124 | 6, 11, 52, 101, 113, 115, 120, 127 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|-----------------------------|-----------------------|--------------------------|-----------------------|--|
| Bulgaria | | 52, 87, 111 | 8 | 11, 14, 24, 25, 44, 55, 56, 77, 78, 94, 95, 98, 106, 124 |
| Burundi | | 94 | | 11 |
| Byelorussian SSR | | 98, 111, 115, 122 | 11, 52 | 14, 77, 78, 95, 97, 106, 124 |
| Cameroon | 158 | 94, 122, 132, 143 | 87 | 11, 14, 78, 95, 98 |
| Canada | | 111 | 14 | 8, 22 |
| Central African Republic | | | | 81 |
| Chad | | 52, 87, 95 | 98, 111 | 11, 14, 22 |
| Chile | | 9, 111 | 8 | 11, 14 |
| China | 159 | 14, 22, 23 | 27 | 11 |
| Colombia | | 3, 52, 111 | 24 | 1, 8 |
| Comoros | | 17, 87, 95, 98, 101, 122 | 77, 78 | 6, 11, 12, 14, 42, 89, 100, 106 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|--------------------|-----------------------|--|---|---------------------------------|
| Congo | | 149, 150 | 87, 152 | 6, 11, 14, 89, 95 |
| Costa Rica | | 94, 95, 101, 107, 111, 145, 147 | 87, 144 | 117, 148 |
| Côte d'Ivoire | 129 | 95, 111 | 87, 98, 144 | 11, 14, 52 |
| Cuba | | 95, 111, 122 | 1, 8, 22, 23, 52, 77, 78, 101, 106, 145, 150 | 11, 14, 87, 94, 97, 107, 140 |
| Cyprus | 160 | 87, 106, 119, 122, 143 | 44, 97, 121, 144 | 11, 94, 98, 114, 124 |
| Denmark | 148 | 87, 88, 98, 102, 130 | 94, 115, 144, 150 | 8, 11, 52, 106, 108 |
| Faeroe Islands | | 53, 126 | | 27, 92, 98 |
| Greenland | | 14, 106, 122, 126 | | 11, 87 |
| Djibouti | | | 17 | 6, 18, 45, 81, 88, 89 |
| Dominica | | 8, 87, 95, 138 | 97 | |
| Dominican Republic | | 29, 100, 105, 111 | 77, 87, 98, 107 | 45, 52, 79, 89, 90 106 |
| Ecuador | | 97, 101, 107, 111, 122, 148, 149, 103 | 77, 87, 98 | 11, 78, 95, 114, 117, 124 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|----------------------------------|-----------------------|--|---|--|
| Egypt | 148, 159 | 22, 55, 56, 71, 87, 92, 94, 95, 106, 115, 145, 147 | 98, 144 | 11, 14, 52, 98, 101, 107 |
| El Salvador | 159, 160 | 107 | | |
| Equatorial Guinea | | 14 | | |
| Ethiopia | | 87, 98, 111 | 11 | |
| Fiji | | 84, 98 | 8, 11 | |
| Finland | 160, 161, 162 | 8, 87, 91, 98, 111, 115, 124, 130, 145, 150, 154 | 11, 22, 144 | 14, 94 |
| France | | 14, 22, 106, 111, 122, 149 | 8, 24, 35, 44, 55, 56, 71, 97, 114, 144, 145, 147 | 11, 23, 52, 90, 101 |
| <u>Overseas Departments:</u> | | | | |
| French Guiana | | 22, 29, 145, 149 | 8, 24, 56, 71, 106, 114 | 23, 45, 52, 55, 98, 101, 111, 129, 144 |
| Guadeloupe | | 22, 29, 145, 149 | 8, 56, 71, 106, 114 | 11, 14, 23, 45, 52, 55, 98, 101, 111, 129, 144 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|---|-----------------------|--|---|--|
| Martinique | | 22, 29, 145, 149 | 8, 24, 56, 71, 106, 114 | 11, 14, 23, 45, 52, 55, 98, 101, 111, 129, 144 |
| Réunion | | 22, 29, 145, 149 | 8, 24, 56, 71, 106, 114 | 11, 14, 23, 45, 52, 55, 98, 101, 111, 129, 144 |
| Territorial Community of St. Pierre and Miquelon | | 22, 44, 122, 145 | 24, 56, 71, 106 | 11, 23, 45, 52, 55, 98, 101, 111, 129 |
| <u>Territories:</u> <u>Overseas</u> <u>Territories:</u> French Polynesia | | 22, 29, 44, 77, 87, 94, 122 | 23, 55, 56, 71, 82, 95, 98 | 11, 17, 24, 78, 100, 111, 124, 141, 147 |
| New Caledonia | | 77, 87, 95, 98, 100, 111, 115, 124, 127, 144 | 11, 14, 52, 55, 56, 71, 82, 94, 101, 106 | 23, 78 |
| Gabon | | 95, 105 | 14, 98, 111 | 11, 124 |
| Germany | 53, 125 | 3, 22, 29, 87, 88, 111, 115, 132 | 8, 97, 98, 144 | 11, 23, 98, 105, 114 |
| Ghana | | 22, 26, 50, 64, 81, 87, 92, 98, 105, 117, 151 | 106 | 1, 8, 11, 14, 22, 45, 58, 88, 107, 108, 114, 115, 119, 120, 150 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|-----------|-----------------------|--|-------------------------------------|---|
| Greece | 135, 149 | 11, 29, 71, 77, 78, 92, 95, 98, 115, 138, 144, 159 | 62, 124 | 8, 11, 14, 23, 42, 52, 55, 106 |
| Grenada | | 26, 99 | | |
| Guatemala | 16, 104, 122, 131 | 94, 95, 99 | 11, 77, 78, 87, 97, 98, 111, 114 | 14, 101, 106 |
| Guinea | | 149 | | 140 |
| Guyana | | 42, 111, 149 | | 140, 150 |
| Haiti | | 14, 106 | 1, 12, 17, 30, 77, 78, 87 | 90, 107 |
| Honduras | | 27, 29, 138 | 42, 87 | 14, 45, 78, 95, 98, 100, 105, 106, 111 |
| Hungary | 161 | 62, 87, 98, 111, 115, 122, 140 | 77, 124 | 14, 24, 52, 78, 95, 101, 145 |
| Iceland | | 87 | 98, 144 | |
| India | | 29, 115 | | 22 |
| Indonesia | | 27, 29, 98 | | 45, 106 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|------------|-----------------------|--|---------------------------------|---|
| Iraq | 119, 120 | 8, 22, 23, 77, 78, 95, 107, 144 | 98, 115, 140 | 11, 14, 105, 106, 144 145 |
| Ireland | 159 | 26, 27, 29, 53, 73, 81, 87, 98, 99, 102, 105, 122 | 11, 22, 121, 132 | 6, 8, 14, 23, 44, 87, 124 |
| Israel | | | 77, 95 | 14, 52, 78, 87, 94, 97, 98, 101, 117 |
| Italy | | 87, 132, 143 | 79, 89, 90, 94, 98, 134, 139 | 11 |
| Jamaica | | 8, 94, 122 | | 11 |
| Japan | | 87, 115, 122, 147 | 8, 22, 98 | |
| Kenya | | 17, 29, 98, 132, 143 | 94, 140 | 11, 14, 97 |
| Lesotho | | 11, 87 | 98 | |
| Luxembourg | | 130 | 2, 88 | |
| Madagascar | | 87 | 81 | |
| Malawi | | 129, 158 | | 45, 89 |
| Mali | | 11 | 87 | 6, 11, 14, 52, 95, 98, 111 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|-------------|---------------------------------------|-----------------------------------|-----------------------------|--|
| Malta | 13, 45, 62, 96, 106, 117, 119, 159 | 87, 98 | | 8, 11, 14, 21, 22 |
| Mauritania | | 22, 29, 94 | | 5, 11, 13, 14, 18, 62, 95 |
| Mauritius | | 8, 14, 26, 94, 95, 98, 99, 105 | | 11, 84, 97 |
| Mexico | 160 | 9, 22, 107, 111, 115, 150 | 23, 87 | 14, 52, 55, 95, 106, 124, 140, 144 |
| Mongolia | | 122 | 103 | |
| Morocco | | 29, 30, 94, 122, 129 | 22, 55, 98, 145 | 11, 14, 27, 52, 101, 111 |
| Mozambique | | 100, 105 | | |
| Myanmar | | 52, 87 | | 11, 14, 22 |
| Nepal | | 111 | | 14 |
| Netherlands | 113, 151, 156, 159 | 87, 140, 145, 150 | 24, 25, 71, 97, 114, 115 | 8, 11, 14, 22, 23, 45, 94, 95, 101, 106, 124 |
| Aruba | | | | 45 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|-------------------------|-----------------------|---|-----------------------|--|
| Netherlands Antilles | | 33, 122 | 17, 25, 94 | 8, 11, 14, 22, 23, 95, 101 |
| New Zealand | | 14, 44, 52, 105, 122, 144 | 11, 22, 97, 145 | 23, 101 |
| Nicaragua | | 27, 29, 95, 105, 111, 115, 117, 122 | 12, 17, 127 | 1, 4, 6, 11, 14, 22, 23, 24, 25, 30, 45, 77, 78, 119, 135, 137, 140 |
| Niger | | 102 | 18, 119 | 11, 41, 100 |
| Nigeria | | 29, 87, 95, 98, 105 | | 8, 11, 45, 94, 98 |
| Norway | | 8, 22, 56, 97, 111, 115, 130, 132, 143, 154, 150 | 44, 71, 144 | 11, 14, 95, 98 |
| Panama | | 64 | 81 | 111 |
| Paraguay | | 107 | | |
| Peru | 59 | 151 | 87 | |
| Philippines | | 23, 94, 95, 98, 111, 122 | | |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|--------------|-----------------------|--|-----------------------|---|
| Poland | | 87, 95, 98, 111, 122 | 2, 24, 25 | 8, 11, 14, 22, 23, 77, 78, 101, 124, 140, 145 |
| Portugal | | 8, 22, 23, 77, 95, 97, 98, 117, 122, 124, 132, 143, 144, 151 | 11, 14, 68, 78, 87 | 106, 107 |
| Qatar | | | | 81 |
| Romania | | 11, 29, 87, 98, 122 | 95, 117 | 8, 11, 14, 24 |
| Rwanda | 87, 98, 135 | 11, 94, 123 | 111, 117 | 14 |
| San Marino | 140, 150 | 87, 100, 111, 143, 159 | 98 | 144 |
| Saudi Arabia | | | | 14 |
| Senegal | | 98, 111, 121 | 87 | 11, 14, 52, 95, 101, 117 |
| Seychelles | 5 | 2, 16, 105 | | 11 |
| Sierra Leone | | | 144 | |
| Somalia | | 22, 94, 95 | | |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|---------------------------------|-----------------------|--|---|--|
| Spain | | 29, 44, 77, 78, 87, 92, 97, 106, 111, 122, 124, 154, 158 | 8, 11, 14, 22, 23, 94, 95, 98, 101, 114, 117, 145 | |
| Sri Lanka | 115 | 95, 131, 135 | 11, 81 | 8 |
| Sudan | | 95, 105, 111, 117 | | |
| Suriname | | 94 | 87 | 11, 14, 95, 101, 106, 144, 150 |
| Swaziland | | 87, 94 | 81, 98 | 11, 14, 29, 45, 89, 90, 95, 101, 105, 144 |
| Sweden | | 122, 151, 155, 156 | 8, 88, 98, 132, 140, 143, 144, 145, 150 | 11, 14, 87, 154 |
| Switzerland | | 44, 87, 115 | 11, 150 | 14, 23 |
| Syrian Arab Republic | | 29, 95, 96, 105, 106, 115, 117, 129 | | 11, 14, 101 |
| Tanzania, United Republic of | | 17, 29, 88, 98, 105, 131, 137, 140, 144, 149 | 148, 152 | 11, 45, 85, 94, 95, 97, 101, 108 |
| Tanganyika | | 98 | 81 | |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|---------------------|-----------------------|---|--|--|
| Zanzibar | | 149 | | 85 |
| Thailand | | 122 | | |
| Togo | | 98, 111 | 87 | 11, 14, 95, 143, 144 |
| Trinidad and Tobago | | 98 | 97 | |
| Tunisia | | 8, 22, 23, 26, 29, 55, 87, 100, 111, 113, 117, 122, 127 | 18, 77, 88, 95, 98, 124 | 11, 14, 17, 45, 52, 89, 90, 106, 107, 114 |
| Turkey | | 77, 94, 95, 98, 111, 115 122 | 11, 14 | |
| Uganda | | 17, 29, 81, 94, 95, 98, 143 | | 11, 12, 45, 124 |
| Ukrainian SSR | | 5, 98, 111, 115 | 11, 95 | 14, 23, 77, 78, 124 |
| USSR | 134, 148, 159 | 52, 77, 78, 98, 111, 115, 124 | 11 | 14, 95, 106 |
| United Kingdom | 160 | 8, 17, 87, 98, 105, 115, 126, 140, 148, 150 | 22, 24, 25, 44, 56, 82, 97, 101, 124, 144 | 11, 23, 114 |
| Anguilla | | 8, 14, 23, 29, 101, 148 | 11 | 22, 82, 87, 97, 98, 105 |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|--------------------------------|-----------------------|-----------------------|---|-------------------------------|
| Bermuda | | 82, 94, 115 | | 11, 22, 23, 87, 98 |
| British Virgin Islands | | 8, 94 | | 11, 23, 82, 97, 98, 105 |
| Falkland Islands (Malvinas) | | 8, 11, 98 | 23 | 14, 22, 82, 87, 105 |
| Gibraltar | | | 82 | 8, 11, 22, 23, 44 |
| Guernsey | | 81, 105, 122, 148 | 115, 151 | 8, 11, 22, 42, 44, 97, 114 |
| Hong Kong | | 8, 98, 105, 122, 151 | 11, 14, 97, 124, 144 | 87, 101 |
| Isle of Man | 126 | 17, 81, 122, 147 | 8, 22, 24, 25, 42, 44, 56, 95, 97, 101 | 11, 105 |
| Jersey | | | 24, 25 | 11, 105 |
| Montserrat | | 95, 97, 105 | | 8, 11, 82, 87, 98 |
| St. Helena | | 8 | 17, 82 | 11, 87, 98 |
| United States | 144 | 55 | | 58 |
| American Samoa | | | 55 | |

| Country | A Conventions Nos. | B Conventions Nos. | C Conventions Nos. | D Conventions Nos. |
|--------------------------------------|-----------------------|--|-----------------------|-----------------------------|
| Guam | | | 55 | |
| Puerto Rico | | | 55 | |
| Pacific Islands (Trust Territory) | | | 55 | |
| United States Virgin Islands | | | 55 | |
| Uruguay | 144 | 9, 14, 22, 94, 95, 122, 130, 131, 136 | 11, 77, 78, 97, 98 | 23, 87, 114 |
| Venezuela | | 87, 95, 143, 144, 149, 155, 156 | 98 | 11, 14, 22, 97, 140, 150 |
| Republic of Yemen | | 148 | | |
| Yugoslavia | 126, 155, 156, 159 | 27, 53, 103, 121, 135 | 9, 88, 89, 90, 91 | 29, 45, 81, 129, 140 |
| Zaire | 102, 158 | 29, 88, 94, 95, 100, 117 | 98 | 11, 119 |
| Zambia | | 11, 97, 105, 111, 122, 136, 144, 149 | 95, 117, 124 | |



Part 2

Summary of reports on
the Paid Educational Leave Convention, 1974 (No. 140)
and Recommendation, 1974 (No. 148) and on the Human
Resources Development Convention, 1975 (No. 142)
and Recommendation, 1975 (No. 150)
(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 1990.

The report of the Committee of Experts on the Application of Conventions and Recommendations, which will be submitted to the Conference at its 78th (1991) Session, will include a general survey on the reports on the above-mentioned Convention and Recommendation (Report III, Part 4B).

REPORTS RECEIVED ON CONVENTION Nos. 140 AND 142
AND RECOMMENDATION Nos. 148 AND 150

| Member States | Conventions | | Recommendations | |
|--------------------------|-------------|-----------|-----------------|-----|
| | 140 | 142 | 148 | 150 |
| | Rat. A.19 | Rat. A.19 | Art. 19 | |
| Afghanistan | | | | - |
| Algeria | R | R | - | - |
| Angola | - | - | - | - |
| Antigua and Barbuda | - | - | - | - |
| Argentina | X | R | X | X |
| Australia | X | R | X | X |
| Austria | X | R | X | X |
| Bahamas | X | | X | X |
| Bahrain | - | - | - | - |
| Bangladesh | X | - | X | X |
| Barbados | - | - | - | - |
| Belgium | X | . | X | X |
| Belize | X | | X | X |
| Benin | X | | X | X |
| Bolivia | X | | X | X |
| Botswana | X | | X | X |
| Brazil | X | R | X | X |
| Bulgaria | X | | X | X |
| Burkina Faso | - | - | - | - |
| Burundi | - | | - | - |
| Byelorussian SSR | X | R | X | X |
| Cambodia | - | - | - | - |
| Cameroun | X | X | X | X |
| Canada | X | X | X | X |
| Cape Verde | - | - | - | - |
| Central African Republic | - | - | - | - |
| Chad | X | X | X | X |
| Chile | X | X | X | X |
| China | X | X | X | X |
| Colombia | - | X | - | - |
| Comoros | - | - | - | - |
| Congo | - | - | - | - |
| Costa Rica | - | - | X | - |
| Côte d'Ivoire | X | - | X | X |
| Cuba | - | - | - | - |
| Cyprus | R | R | X | X |
| Czechoslovakia | R | R | X | X |

| Member States | Conventions | | Recommendations | |
|------------------------------|-------------|-----------|-----------------|-----|
| | 140 | 142 | 148 | 150 |
| | Rat. A.19 | Rat. A.19 | Art. 19 | |
| Denmark | X | R | X | - |
| Djibouti | - | - | - | - |
| Dominica | - | - | - | - |
| Dominican Republic | X | X | X | X |
| Ecuador | - | - | - | - |
| Egypt | X | R | X | X |
| El Salvador | - | - | - | - |
| Equatorial Guinea | X | X | X | X |
| Ethiopia | X | X | X | X |
| Fiji | - | - | - | - |
| Finland | X | R | X | X |
| France | - | R | X | X |
| Gabon | X | X | X | X |
| Germany | R | R | X | X |
| Ghana | - | - | - | - |
| Greece | X | R | X | X |
| Grenada | - | - | - | - |
| Guatemala | X | - | - | - |
| Guinea | - | R | - | - |
| Guinea-Bissau | R | - | - | - |
| Guyana | R | R | - | - |
| Haiti | - | - | - | - |
| Honduras | - | - | - | - |
| Hungary | X | R | X | X |
| Iceland | - | - | - | - |
| India | X | - | X | - |
| Indonesia | X | - | X | X |
| Iran, Islamic Republic of | - | - | - | - |
| Iraq | R | R | - | - |
| Ireland | - | R | X | X |
| Israel | X | R | X | X |
| Italy | X | R | - | - |
| Jamaica | X | - | X | X |
| Japan | X | R | X | X |
| Jordan | - | R | - | - |
| Kenya | - | R | - | - |
| Kuwait | R | - | - | - |
| Lao People's Democratic Rep. | - | - | - | - |
| Lebanon | - | - | - | - |
| Lesotho | - | X | X | X |
| Liberia | - | - | - | - |
| Libyan Arab Jamahiriya | - | - | - | - |

| Member States | Conventions | | Recommendations | |
|-----------------------|-------------|-----------|-----------------|-----|
| | 140 | 142 | 148 | 150 |
| | Rat. A.19 | Rat. A.19 | Art. 19 | |
| Luxembourg | X | X | X | X |
| Madagascar | - | - | - | - |
| Malaysia | X | X | X | X |
| Malawi | - | - | - | - |
| Mali | X | X | X | X |
| Malta | X | X | X | X |
| Mauritania | - | - | - | - |
| Mauritius | X | X | X | X |
| Mexico | - | - | X | X |
| Mongolia | - | - | - | - |
| Morocco | X | X | X | X |
| Mozambique | X | X | X | X |
| Myanmar | - | - | - | - |
| Namibia | - | - | - | - |
| Nepal | - | - | - | - |
| Netherlands | R | R | - | X |
| New Zealand | - | - | - | - |
| Nicaragua | R | R | - | - |
| Niger | - | - | - | - |
| Nigeria | X | X | X | X |
| Norway | X | - | X | X |
| Pakistan | X | X | X | X |
| Panama | X | X | X | X |
| Papua New Guinea | - | - | - | - |
| Paraguay | - | - | - | - |
| Peru | - | - | - | - |
| Philippines | - | X | X | - |
| Poland | R | - | X | X |
| Portugal | - | R | X | X |
| Qatar | X | X | X | X |
| Romania | X | X | X | X |
| Rwanda | X | X | X | X |
| Saint Lucia | - | - | - | - |
| San Marino | - | - | X | X |
| Sao Tome and Principe | R | R | X | X |
| Saudi Arabia | X | X | X | X |
| Senegal | - | - | - | - |
| Seychelles | - | - | - | - |
| Sierra Leone | - | - | - | - |
| Singapore | X | X | X | X |
| Solomon Islands | - | - | - | - |
| Somalia | - | - | - | - |

| Member States | Conventions | | | | Recommendations | |
|----------------------------|-------------|------|------|------|-----------------|-----|
| | 140 | | 142 | | 148 | 150 |
| | Rat. | A.19 | Rat. | A.19 | Art. 19 | |
| Spain | R | - | R | - | X | X |
| Sri Lanka | | X | | X | X | X |
| Sudan | | X | | - | X | - |
| Suriname | | X | | X | X | X |
| Swaziland | | - | | - | - | - |
| Sweden | R | - | R | - | X | X |
| Switzerland | | X | R | - | X | X |
| Syrian Arab Republic | | - | | - | - | - |
| Tanzania (United Republic) | R | - | R | - | - | - |
| Thailand | | - | | - | - | - |
| Togo | | X | | X | X | X |
| Trinidad and Tobago | | X | | X | X | X |
| Tunisia | | X | R | - | X | X |
| Turkey | | X | | X | X | X |
| Uganda | | - | | - | - | - |
| Ukrainian SSR | | X | R | - | X | X |
| USSR | | X | R | - | X | X |
| United Kingdom | R | - | R | - | X | X |
| United Arab Emirates | | X | | X | X | X |
| United States | | X | | X | X | X |
| Uruguay | | X | | X | X | X |
| Venezuela | R | - | R | - | X | X |
| Yemen Republic | | - | | - | - | - |
| Yugoslavia | R | - | R | - | - | - |
| Zaire | | - | | - | - | - |
| Zambia | | X | | X | X | X |
| Zimbabwe | | - | | - | - | - |

In addition, a total of 35 reports have been received, under article 19 of the Constitution, in respect of the following non-metropolitan territories: United Kingdom (Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Hong Kong, Isle of Man, Jersey, Monserrat, St. Helena).

R = Ratified Conventions.

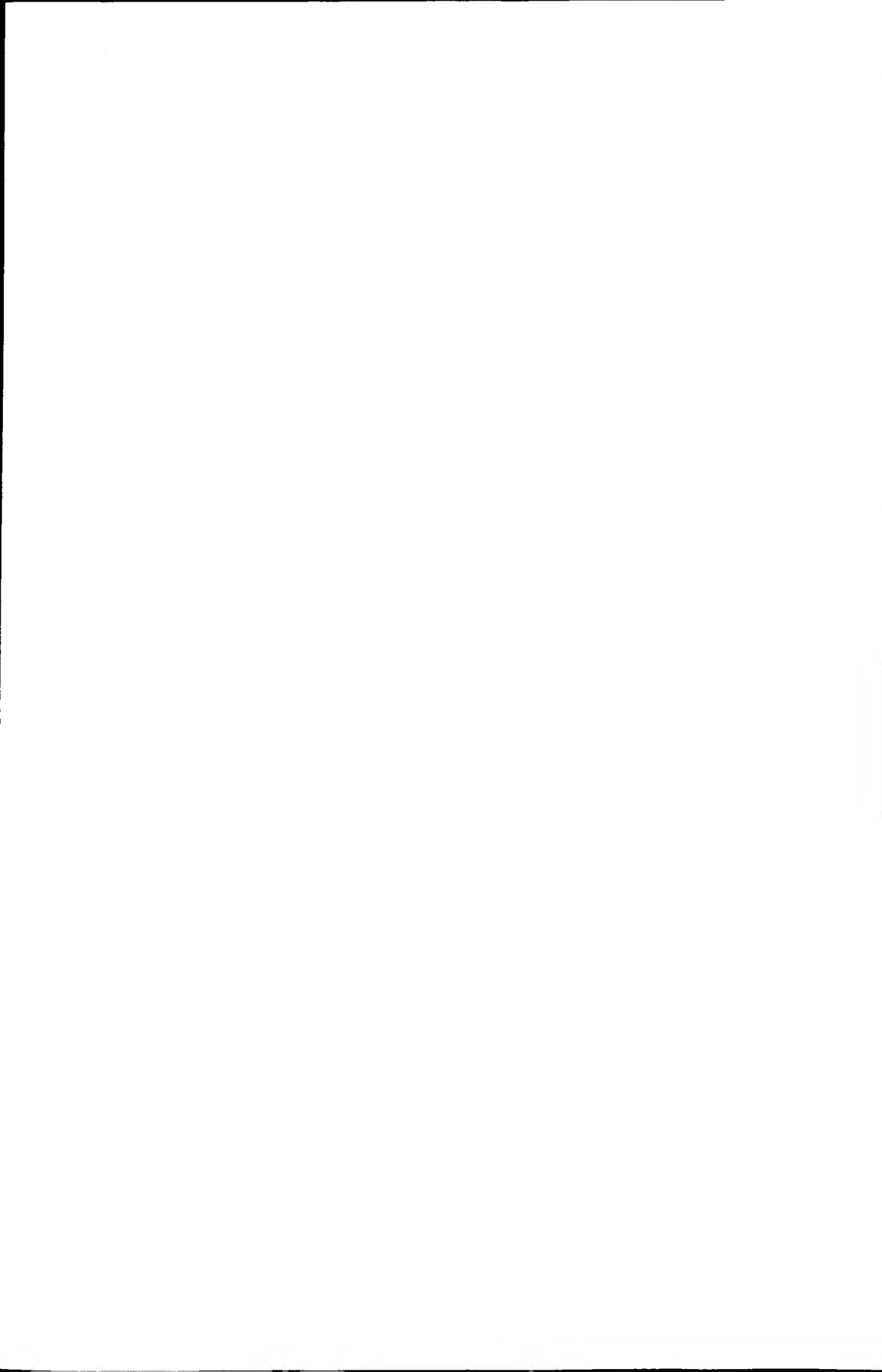
X = Reports requested and received (under article 19 of the Constitution).

- = Reports requested and not received (under article 19 of the Constitution).

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 Convention adopted by the Conference at its 76th Session held in Geneva from 7 to 28 June 1989.

The period of one year provided for the submission to the competent authorities of the instruments in question expired on 28 June 1990 and the period of 18 months on 28 December 1990.

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 75th Sessions (1948 to 1988). 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 77th 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 65th TO 76th SESSIONS

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).

76th Session (1990)

Indigenous and Tribal Peoples Convention, 1989 (No. 169)



SUMMARY OF INFORMATION RELATING TO THE SUBMISSION TO
THE COMPETENT AUTHORITIES OF THE CONVENTION
ADOPTED BY THE INTERNATIONAL LABOUR
CONFERENCE AT ITS 76th SESSION (GENEVA, 1989) AND
SUPPLEMENTARY INFORMATION ON THE TEXTS ADOPTED AT
ITS 31st TO 75th SESSIONS (1948-1988)

Argentina. The instruments adopted at the 75th Session of the Conference were submitted to Congress on 7 February 1990.

Australia. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 6 December 1990.

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

Bahamas. The instrument adopted at the 76th Session of the Conference has been submitted to the competent authorities.

Barbados. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 20 February 1990.

Belgium. The instruments adopted at the 74th Session of the Conference were submitted to Parliament on 28 June 1990. Ratification of Conventions Nos. 163, 164 and 166 was proposed.

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

Brazil. Convention No. 139, adopted at the 59th Session of the Conference, has been submitted to Congress and ratified.

Bulgaria. The instrument adopted at the 76th Session of the Conference was submitted to the National Assembly on 22 November 1990.

Byelorussian SSR. The instrument adopted at the 76th Session of the Conference was submitted to the Supreme Soviet in April 1990.

Canada. The instrument adopted at the 76th Session of the Conference was submitted to the House of Commons on 19 December 1990 and to the Senate on 20 December.

Chile. The instruments adopted at the 75th Session of the Conference have been submitted to Congress.

China. The instruments adopted at the 75th and 76th Sessions of the Conference were submitted to the National People's Congress on 25 June 1990.

Colombia. Recommendation No. 170, adopted at the 71st Session of the Conference, has been submitted to Congress.

Costa Rica. The instrument adopted at the 76th Session of the Conference was submitted to the Legislative Assembly on 7 May 1990. Ratification of this Convention (No. 169) has been proposed.

Côte d'Ivoire. The instrument adopted at the 76th Session of the Conference was submitted to the National Assembly on 12 October 1989. The instruments adopted at the 74th Session were submitted to the National Assembly on 2 May 1990.

Cuba. The instrument adopted at the 76th Session of the Conference was submitted to the Council of Ministers on 25 June 1990.

Cyprus. The instruments adopted at the 74th Session of the Conference were submitted to the House of Representatives on 11 June 1990. The instruments adopted at the 75th Session were submitted on 27 December 1990.

Czechoslovakia. The instruments adopted at the 74th Session of the Conference were submitted to the Federal Assembly on 10 July 1990. Conventions Nos. 163 and 164 have been ratified. The instruments adopted at the 75th Session were submitted on 19 July 1990. Convention No. 168 has been ratified.

Denmark. The instrument adopted at the 76th Session of the Conference was submitted to Parliament in November 1990.

Egypt. The instrument adopted at the 76th Session of the Conference has been submitted to the People's Assembly.

Ethiopia. The instrument adopted at the 76th Session of the Conference was submitted to the National Assembly on 4 August 1990.

Finland. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 23 November 1990.

France. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 27 December 1990.

Ghana. The instrument adopted at the 76th Session of the Conference was submitted to the Provisional National Defence Council on 29 December 1989.

Grenada. The instruments adopted at the 66th and 67th Sessions of the Conference were submitted to Parliament on 18 May 1990.

Guinea. The instruments adopted from the 68th to 75th Sessions of the Conference were submitted to the Council of Ministers on 17 May 1989.

Honduras. Conventions Nos. 164, 165 and 166 and Recommendation No. 174, adopted at the 74th Session of the Conference, were submitted to Congress on 9 May 1990.

Iceland. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 26 March 1990.

Indonesia. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to the House of Representatives on 26 July 1989. The instrument adopted at the 76th Session was submitted to the House on 11 October 1989.

Iraq. The instruments adopted at the 75th Session of the Conference have been submitted to the competent authorities. Convention No. 167 has been ratified.

Israel. The instruments adopted at the 72nd, 74th and 75th Sessions of the Conference were submitted to Parliament on 21 May 1989.

Italy. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 13 December 1990.

Japan. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 26 June 1990.

Jordan. The instrument adopted at the 76th Session of the Conference was submitted to the competent authorities on 15 October 1989.

Kuwait. The instrument adopted at the 76th Session of the Conference has been submitted to the Council of Ministers.

Luxembourg. The instrument adopted at the 76th Session of the Conference was submitted to the House of Representatives on 21 November 1990.

Malaysia. The instrument adopted at the 76th Session of the Conference was submitted to Parliament in June 1990.

Malta. The instrument adopted at the 76th Session of the Conference was submitted to the House of Representatives on 19 December 1989.

Mauritania. The instruments adopted from the 68th to 76th Sessions of the Conference were submitted to the Military Committee on National Protection on 20 December 1990.

Mauritius. Convention No. 148 and Recommendation No. 156 adopted at the 63rd Session of the Conference, Convention No. 155 and Recommendation No. 164 (67th Session), Convention No. 161 and Recommendation No. 171 (71st Session), and the instruments adopted at the 72nd and 74th Sessions were submitted to the National Legislative Assembly on 22 May 1990. The instruments adopted at the 75th and 76th Sessions were submitted to the National Legislative Assembly on 4 December 1990.

Mexico. The instruments adopted at the 75th and 76th Sessions of the Conference have been submitted to the Senate. Conventions Nos. 167 and 169 have been ratified.

Mozambique. The instrument adopted at the 76th Session of the Conference was submitted to the People's Assembly on 30 April 1990.

Myanmar. The instruments adopted at the 74th Session of the Conference were submitted to Parliament on 2 May 1990. The instrument adopted at the 76th Session was submitted to Parliament on 9 November 1990.

Netherlands. The instruments adopted at the following Sessions of the Conference were submitted to Parliament on these dates: 70th Session (20 March 1989), 72nd Session (19 March 1990), 75th Session (24 October 1989), 76th Session (22 May 1990); furthermore, Convention No. 155 and Recommendation No. 164 (67th Session) were submitted on 23 August 1990 and Convention No. 160 and Recommendation No. 170 were submitted on 15 June 1990; Convention No. 160 has been ratified.

New Zealand. The instrument adopted at the 76th Session of the Conference was submitted to the House of Representatives on 30 May 1990.

Nicaragua. The instruments adopted from the 74th to 76th Sessions of the Conference were submitted to the National Assembly on 6 December 1990.

Nigeria. The instrument adopted at the 76th Session of the Conference has been submitted to the competent authorities.

Norway. Convention No. 169, adopted at the 76th Session of the Conference, was submitted to Parliament on 18 May 1990 and ratified.

Peru. Conventions Nos. 153, 155 and 157, as well as Recommendations Nos. 161, 164 and 167 have been submitted to Congress.

Philippines. The instrument adopted at the 76th Session of the Conference was submitted to Congress on 18 April 1990.

Poland. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 5 May 1990.

Portugal. The instruments adopted at the 75th and 76th Sessions of the Conference have been submitted to the National Assembly.

Qatar. The instruments adopted at the 74th Session of the Conference were submitted to the Council of Ministers on 21 May 1990.

Romania. The instrument adopted at the 76th Session of the Conference has been submitted to Parliament.

Rwanda. Convention No. 169, adopted at the 76th Session of the Conference, was submitted to the President of the Republic on 30 January 1990. Ratification has been proposed.

San Marino. The instruments adopted from the 68th to 76th Sessions of the Conference were submitted to Parliament on 17 December 1990.

Sao Tome and Principe. The instruments adopted from the 68th to 76th Sessions of the Conference were submitted to the People's National Assembly on 10 May 1990.

Saudi Arabia. The instrument adopted at the 76th Session of the Conference was submitted to the Council of Ministers on 24 October 1990.

Senegal. The instrument adopted at the 76th Session of the Conference was submitted to the National Assembly on 27 October 1989.

Singapore. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 29 December 1990.

Spain. Conventions Nos. 159, 162 and 166, as well as Recommendations Nos. 168, 172 and 174, adopted at the 69th, 72nd and 74th Sessions of the Conference have been submitted to the Cortes. The Conventions have been ratified.

Sweden. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 21 December 1989. Convention No. 168 has been ratified.

Togo. The instrument adopted at the 76th Session of the Conference was submitted to the National Assembly in February 1989.

Trinidad and Tobago. The instruments adopted at the 71st and 72nd Sessions of the Conference were submitted to the House of Representatives on 2 February 1990 and to the Senate on 6 February 1990.

Tunisia. The instrument adopted at the 76th Session of the Conference was submitted to the Chamber of Representatives on 6 December 1990.

Turkey. The instrument adopted at the 76th Session of the Conference was submitted to the Grand National Assembly on 17 December 1989.

Ukrainian SSR. The instrument adopted at the 76th Session of the Conference has been submitted to the Supreme Soviet.

USSR. The instrument adopted at the 76th Session of the Conference has been submitted to the Supreme Soviet.

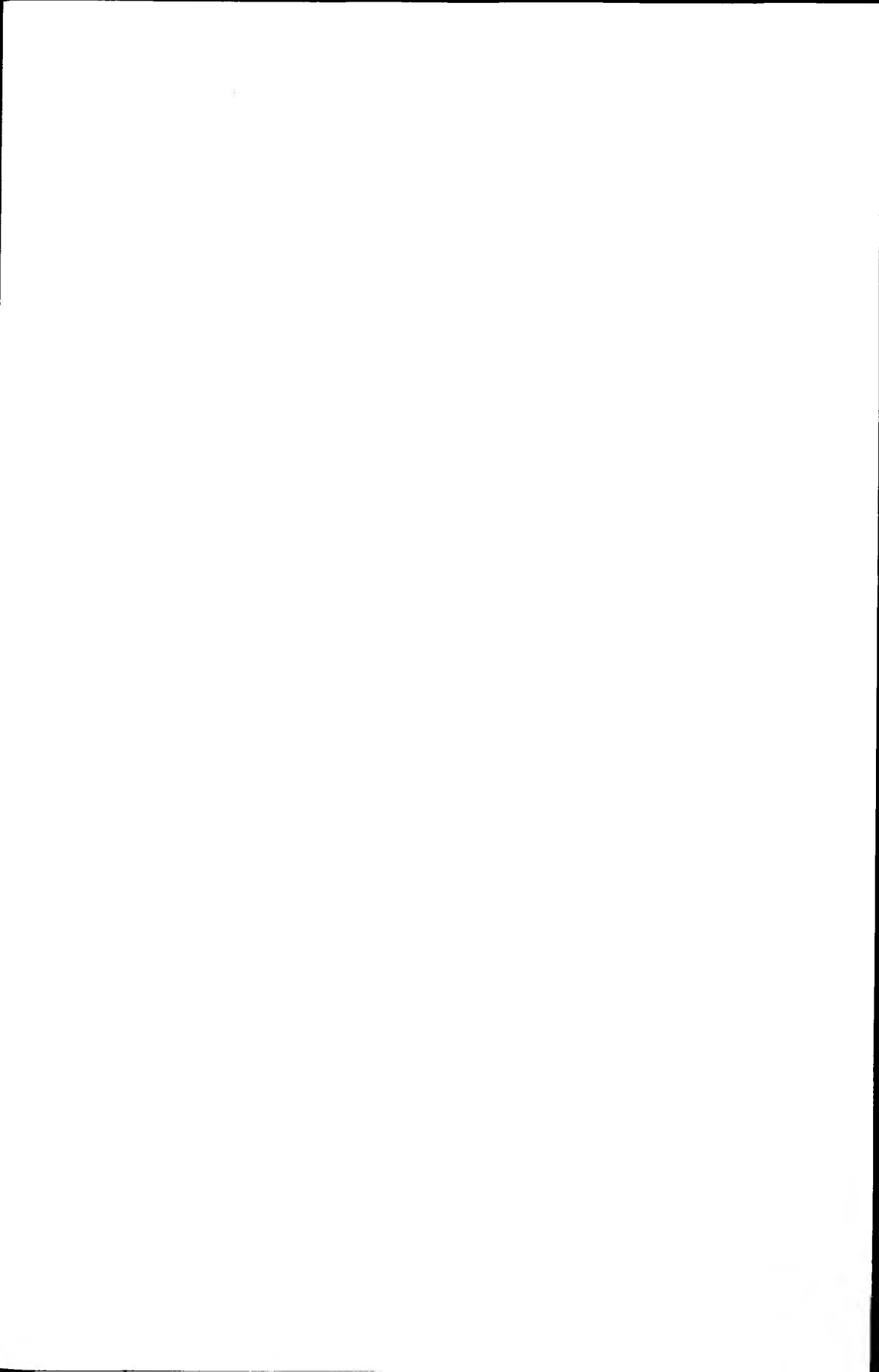
United Arab Emirates. The instrument adopted at the 76th Session of the Conference was submitted to the Council of Ministers on 28 January 1991.

United Kingdom. The instrument adopted at the 76th Session of the Conference was submitted to Parliament in June 1990.

Uruguay. Recommendation No. 172, adopted at the 72nd Session of the Conference, as well as the instruments adopted at the 74th Session were submitted to the General Assembly on 22 August 1990.

Yemen. Conventions Nos. 167 and 168, adopted at the 75th Session of the Conference, have been submitted to the competent authorities.

Zambia. The instruments adopted at the 74th Session of the Conference were submitted to the National Assembly on 8 October 1990.





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International Labour Conference
78th Session 1991

Report III
(Part 4A)

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

**General report
and observations concerning particular countries**



International Labour Office Geneva



International Labour Conference
78th Session 1991

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

International Labour Office Geneva

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First published 1991

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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AND RECOMMENDATION (No. 150)

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

INDEX TO COMMENTS MADE BY THE COMMITTEE, BY COUNTRY

| Country | Observations made by the Committee (published in the present Report) ¹ | Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) ² |
|---------------------|---|---|
| Afghanistan | General Report, paras. 91, 92. I B, No. 105. | Art. 22, general. Art. 22, Nos. 41, 95, 100, 111, 105, 137, 139, 140, 141. Subm. |
| Albania | I A. | |
| Algeria | I B, Nos. 13, 87, 98, 119. III. | Art. 22, Nos. 24, 77, 78, 87, 98, 127. |
| Angola | General Report, paras. 83, 91, 92, 121. I A and B, No. 105. | Art. 22, general. Art. 22, Nos. 12, 17, 18, 27, 45, 89, 105, 107, 108, 111. Subm. |
| Antigua and Barbuda | General Report, para. 117. I B, No. 87. III. | Art. 22, general. Art. 22, Nos. 17, 29, 98, 111, 138. |
| Argentina | I B, Nos. 87, 98, 107, 111. | Art. 22, Nos. 87, 107, 111, 144, 151. Subm. |
| Australia | | Art. 22, Nos. 87, 160. Art. 35, No. 98. |
| Austria | I B, Nos. 98, 103. | Art. 22, Nos. 98, 103, 144. Subm. |
| Bahamas | General Report, paras. 91, 92. I B, Nos. 42, 144. | Art. 22, general. Art. 22, Nos. 14, 94, 105. Subm. |
| Bahrain | I B, No. 89. | Subm. |

¹ The roman numerals and letters refer to sections of Part Two of this report and the arabic numerals to the numbers of the Conventions.

² The abbreviations used in respect of direct requests are the following:
 "Art. 22": application of ratified Conventions in member States.
 "Art. 35": application of ratified Conventions in non-metropolitan territories.
 "Subm.": submission of Conventions and Recommendations to the competent authorities. The numbers refer to Conventions.

REPORT OF THE COMMITTEE OF EXPERTS

| Country | Observations made by the Committee (published in the present Report) ¹ | Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) ² |
|------------------|---|---|
| Bangladesh | I B, Nos. 27, 87, 98, 107. | Art. 22, Nos. 11, 87, 106, 111, 144. Subm. |
| Barbados | I B, No. 111. | Art. 22, Nos. 87, 98, 111, 122, 144. |
| Belgium | I B, Nos. 13, 87, 105. | Art. 22, Nos. 29, 89. Subm. |
| Belize | General Report, para. 117. III. | Art. 22, general. Art. 22, Nos. 8, 22, 26, 95, 98. |
| Benin | General Report, paras. 83, 91, 92. I B, No. 18. | Art. 22, general. Art. 22, Nos. 29, 87, 98, 105, 111, 143. Subm. |
| Bolivia | I B, Nos. 1, 20, 30, 87, 106, 107, 122, 128. III. | Art. 22, general. Art. 22, Nos. 87, 95, 98, 107, 111, 117, 121, 122, 124, 128, 130. |
| Botswana | | General Report, para. 69. Art. 22, general. Subm. |
| Brazil | I B, Nos. 5, 94, 98, 103, 105, 107, 111, 122. III. | Art. 22, general. Art. 22, Nos. 11, 12, 42, 53, 97, 98, 106, 111, 117, 125, 131. |
| Bulgaria | I B, Nos. 87, 111. | Art. 22, general. Art. 22, Nos. 52, 87, 111. |
| Burkina Faso | General Report, paras. 83, 91, 92. I B, No. 87. | Art. 22, general. Art. 22, Nos. 29, 95, 111, 132, 143, 150. Subm. |
| Burundi | | Art. 22, No. 94. Subm. |
| Byelorussian SSR | I B, Nos. 52, 87. | Art. 22, general. Art. 22, Nos. 98, 100, 111, 122. |
| Cameroon | I B, Nos. 87, 94. | Art. 22, general. Art. 22, Nos. 111, 122, 132, 143, 158. Subm. |
| Cambodia | General Report, paras. 83, 121. I A. III. | |
| Canada | I B, No. 87. | Art. 22, No. 87. |
| Cape Verde | General Report, paras. 83, 91, 92. | Art. 22, general. Art. 22, Nos. 98, 111. Subm. |
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| Country | Observations made by the Committee (published in the present Report) ¹ | Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) ² |
|--------------------------|---|---|
| Central African Republic | General Report, paras. 83, 91, 92. I B, Nos. 41, 52, 62, 81, 87, 94, 118, 119. III. | Art. 22, general. Art. 22, Nos. 87, 95, 98, 111, 117. |
| Chad | I B, Nos. 52, 87, 98. | Art. 22, Nos. 52, 87, 95, 98, 111. Subm. |
| Chile | I B, Nos. 9, 111, 127. | General Report, para. 69. Art. 22, general. Subm. |
| China | | Art. 22, Nos. 14, 22, 23, 27. |
| Colombia | General Report, paras. 83, 91, 92. I B, Nos. 3, 22, 87, 98, 106, 111. | Art. 22, general. Art. 22, Nos. 3, 87, 95, 107. Subm. |
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| Congo | General Report, para. 117. I B, No. 87. III. | Art. 22, general. Art. 22, Nos. 149, 150. |
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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 61st Session in Geneva from 7 to 20 March 1991. The Committee has the honour to present its report to the Governing Body.

2. The Committee has learned with regret that Mr. K. IKAWA and Mr. A.L. SUSSEKIND have ceased to be members. It wishes to pay tribute to the remarkable contribution they have made to the work of the Committee and recall that during their years in office, with their keen intelligence and their experience, Mr. Ikawa and Mr. Sussekind greatly contributed to the Committee's work.

3. The Governing Body has appointed Mr. Cassio MESQUITA BARROS (Brazil) and Mr. Toshio YAMAGUCHI (Japan) to fill the seats that thus fell vacant. The Committee was pleased to welcome them at its present session.

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

Mr. Benjamin AARON (United States),
Professor Emeritus of Law and former Director of the Institute of Industrial Relations, University of California, Los Angeles; former President, National Academy of Arbitrators; former President, Industrial Relations Research Association; former member of the Arbitration Services Advisory Committee of the Federal Mediation and Conciliation Service; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implement Workers' Union; 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; President of the above Commission's division for the reform of the Law of Minor Offences; former Director of the Institute of Penal Law of the University of Warsaw; 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;

GENERAL REPORT

Mr. Semion A. IVANOV (USSR),

Principal researcher at the Institute of State and Law of the Academy of Sciences of the USSR; Doctor of Legal Science, Professor of Labour Law, 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 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),

Former Vice-President of the International Court of Justice; First Honorary President of the Supreme Court of Senegal; member of the Institute of International Law; 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;

Mr. Cassio MESQUITA BARROS (Brazil),

Associate Professor of Labour Law at the Law School of Sao Paulo University (Graduate and Post-Graduate) and at the Catholic Pontifical University of Sao Paulo; Professor of Labour Relations at the Mackenzie University of Sao Paulo (Post-Graduate); Independent Lawyer on Labour and Labour Relations; Honorary President of the "Asociacion Iberoamericana de Derecho del Trabajo y Seguridad Social", Buenos Aires, Argentina; President of the "Academia Nacional de Direito do Trabalho" (composed of Brazilian labour law experts); Academic Adviser, San Martin de Porres University, Lima, Peru; Member of the International Academy of Jurisprudence on Corporate Law in Rio de Janeiro; Member of the International Academy of Law and then Economics, Sao Paulo.

Mr. Benjamin Obi NWABUEZE (Nigeria),

LLD (London); Hon. LLD (University of Nigeria); 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 International Court of Arbitration of
the International Chamber of Commerce; member of the United
Nations International Law Commission;
- Mr. José María RUDA (Argentina),
Former President of the International Court of Justice;
President of the United States-Iran Claims Tribunal; 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. 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 European Commission
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

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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); Vice-President of Libre Justice, the French section of the International Commission of Jurists; 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 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.

Mr. Toshio YAMAGUCHI (Japan),
Doctor of Law, Honorary Professor of Law at the University of Tokyo, Professor of Law at the University of Chiba, Member of the Japanese Central Committee of Labour Relations, Former Member of the Executive Committee of the International Society of Labour Law and Social Security, Full Member of the International Academy of Comparative Law;

5. The Committee notes with regret that Mrs. Badria AL-AWADHI has been unable to attend the present session owing to the circumstances prevailing in Kuwait.

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

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

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

8. The Committee, after an examination and evaluation of the above-mentioned reports and information, drew up its present report, consisting essentially of the following three parts: Part One is the General Report in which the Committee reviews general questions concerning international labour standards and other instruments and

their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 77 to 107 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 77 to 107 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 108 to 118 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 Paid Educational Leave Convention (No. 140) and Recommendation (No. 148), 1974, and the Human Resources Development Convention (No. 142) and Recommendation (No. 150), 1975 (see paragraphs 119 to 123 below).

9. 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.

10. The Committee has examined thoroughly the views expressed by the Employer members and certain Government members at the examination of its report, particularly paragraph 7, by the Committee on the Application of Standards of the International Labour Conference, at its 77th Session (1990). The Committee has a number of observations to make in this connection.

11. In stating 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 Committee of Experts does not regard those views as decisions having the authority of res judicata, as the Committee is not a court of law. Furthermore, as it has already pointed out on more than one occasion, it has never regarded its views as binding decisions based on a definitive interpretation of the Conventions of which it examines the application by member States. However, it considers that the proper functioning of the standard-setting system of the International Labour Organisation requires that a State should not contest the views expressed by the Committee of Experts on the application of a provision of a Convention that it has ratified and at the same time refrain from making use of the established procedure for obtaining a definitive interpretation of the Convention in question. In such a situation, a doubt would remain as to the obligation to apply the provisions in question and every State would have a power conferred on it which is not conferred by international law. The result would be legal uncertainty as to the meaning and scope of the provisions concerned as long as the question is not settled by a decision of the International Court of Justice;

such a situation would be prejudicial to the certainty of law required for the proper functioning of the standard-setting system of the ILO.

12. The views of the Committee of Experts are generally accepted, amongst other reasons, because the Committee is composed of independent persons with direct experience of the different legal systems and because of its tradition of objectivity and impartiality and the careful attention it pays to the work of the other supervisory bodies of the ILO. The Committee of Experts is not the only body to deal with the problem of the application of Conventions and its evaluations do not prevail erga omnes. Its functions require it to determine whether the provisions of a given Convention are observed and hence to examine their content and meaning, and determine their legal scope. It is essential for the ILO system that the views that the Committee is called upon to express in carrying out its functions, in the conditions recalled above, should be considered as valid and generally recognised, subject to any decisions of the International Court of Justice which is the only body empowered to give definitive interpretations of Conventions. The Employer members of the Conference Committee themselves stated that as a general rule they observe the views of the Committee of Experts, though they reserve the right to depart from them. The Committee observes that this statement is not incompatible with the assertions in paragraph 7 of its 1990 report.

13. Furthermore, the Committee of Experts feels that it should stress the fact that its task, which is to ascertain whether national law and practice are consistent with the provisions of a Convention, is essentially specific and pragmatic, and is carried out in the context of an ongoing dialogue with governments. The Committee none the less bears in mind constantly all the different methods of interpreting treaties. In this connection, it must point out that, on examining the right to strike in connection with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it took account of the indications and unanimous recommendations of the Committee on Freedom of Association on the subject, approved by the Governing Body of the International Labour Office.

II. GENERAL

Membership of the Organisation

14. Since the Committee's last session the number of member States of the ILO has dropped from 150 to 148, since the Yemen Arab Republic and the People's Democratic Republic of Yemen united on 22 May 1990 to become the Republic of Yemen, and the German Democratic Republic joined the Federal Republic of Germany on 3 October 1990.

New standards adopted by the Conference in 1990

15. The Committee notes that at its 77th Session (June 1990), the International Labour Conference adopted the Chemicals Convention

(No. 170) and Recommendation (No. 177), 1990, the Night Work Convention (No. 171) and Recommendation (No. 178), 1990, and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948.

16. The Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), will come into force on 27 August 1991. The Repatriation of Seafarers' Convention (Revised), 1987 (No. 166), will come into force on 3 July 1991. The Safety and Health in Construction Convention, 1988 (No. 167), will come into force on 11 January 1991. The Employment Promotion and Protection Against Unemployment Convention, 1988 (No. 168), will come into force on 17 October 1991. The Indigenous and Tribal Peoples Convention, 1989 (No. 169), will come into force on 5 September 1991.

Ratifications and denunciations

17. In 1990, 74 ratifications by 19 member States were registered. The total number of ratifications at 31 December 1990 was 5,508.¹ From the beginning of 1991 up to 20 March 1991, 19 ratifications by four member States have been registered.

18. The total number of denunciations not accompanied by the ratification of a revised Convention was 59 at 20 March 1991.

19. Since the Committee's last session, the Director-General has registered two denunciations not accompanied by the ratification of Conventions by Malta. They were the Night Work (Women) Convention, 1919 (No. 4), and the Night Work (Women) Convention (Revised), 1948 (No. 89). The Government indicates that the reasons for its decision principally stem from difficulties of a legal, economic and social nature resulting from the prohibition of the employment of women in night work. The legality of prohibiting women who opt to work at night from doing so is likely to be contested in the courts on grounds of discrimination for reasons of sex. Other difficulties arise in the advanced technology sector of industry where the high capital investment necessitates work on a 24-hour basis. Foreign companies in this sector which are interested in setting up business in Malta see

¹ This number takes account of the cancellation, by the Director-General, of the ratifications registered in the name of the German Democratic Republic. Eighteen of them coincided with Conventions ratified by the Federal Republic of Germany, so that 11 Conventions have ceased to apply to the territory of the former German Democratic Republic, whereas 44 Conventions have become applicable to it.

With regard to the Republic of Yemen, the Committee notes that the Government has not communicated a formal declaration concerning the application throughout the territory of the Republic of the Conventions ratified by the two former States before unification. In the absence of a formal declaration to the contrary, in accordance with the rules of international law and ILO constitutional practice, Conventions ratified before unification apply to the State formed at unification only in respect of that part of the territory to which they formerly applied.

the prohibition as a serious hindrance to their consideration of Malta compared with other locations. The Government feels that, at this stage of Malta's development, because of economic and social considerations, it can no longer justify the enforcement of total prohibition of women in night work. Furthermore, the Government considers that it is at risk of being found at fault with regard to discrimination on grounds of sex contrary to the principle established in article 15 of the Constitution of Malta which obliges the State to ensure "that women workers enjoy equal rights and the same wages for the same work as males", as well as article 46 of the Constitution which guarantees protection of the citizens from discrimination "by any person acting by virtue of any written law" and also other international obligations, including Convention No. 111 of the ILO.¹ Before taking its decision, the Government consulted the most representative organisations of employers and workers on the problems encountered and the measures needed to resolve them.

20. The Director-General also registered the denunciations of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), the Old-Age Insurance (Agriculture) Convention, 1933 (No. 36), by Czechoslovakia; the Holidays with Pay Convention, 1936 (No. 52), the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91), by Finland; the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Agriculture) Convention, 1921 (No. 10), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), by Sweden; the Minimum Age (Agriculture) Convention, 1921 (No. 10), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), by Guatemala; the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Agriculture) Convention, 1921 (No. 10), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Minimum Age (Underground Work) Convention, 1965 (No. 123), by France; the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), by Mauritius; the Safety Provisions (Building) Convention, 1937 (No. 62), by Hungary and Mexico and the Unemployment Provision Convention, 1934 (No. 44), by Switzerland. These denunciations followed automatically from the ratification by these countries of revising Conventions.

21. In 1990, 21 new declarations were registered concerning the application of Conventions without modifications, to the non-metropolitan territories of France. The number of declarations of application without modifications on 31 December 1990 stood at 2,037.

¹ In this connection, the Committee recalls that under Article 5, paragraph 1, of Convention No. 111, special measures of protection provided for in Conventions adopted by the International Labour Conference shall not be deemed to be discrimination.

22. The Committee has re-examined the situation, with regard to obligations under the ILO Constitution, regarding certain non-metropolitan territories that have become independent States (Cook Islands and Niue Island) particularly in the light of the Declaration submitted on 10 November 1988 by the Government of New Zealand to the Secretary-General of the United Nations explaining the situation of the Cook Islands and Niue Island as regards treaties concluded by New Zealand. The Committee will pursue its examination of this matter as soon as the parties concerned have explained the implications of the above Declaration.

Constitutional and other procedures

23. 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.

A. Complaints submitted under article 26 of the ILO Constitution

Complaint against Nicaragua

24. The Committee takes note of the report of the Commission of Inquiry established to examine a complaint alleging non-compliance by Nicaragua with 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), submitted under article 26 of the ILO Constitution by several Employers' delegates to the 73rd (1987) Session of the International Labour Conference. In June 1990 the Commission of Inquiry heard representatives of the parties in Geneva, and visited Nicaragua on two occasions, in July and September 1990. The Commission's report was submitted to the Governing Body at its 249th Session (February-March 1991); the Governing Body decided to postpone discussion of the report to its Session of May 1991.

Complaint against Romania

25. Since the last meeting of the Committee of Experts, the Commission of Inquiry established to examine the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), by Romania, which met for the first time in January 1990, has held two sessions. The second session (2-4 July 1990) was devoted to an examination of the situation in Romania since the events of December 1989 and the choice of witnesses presented by the parties or invited by the Commission to provide information to it. During its third session (2-13 October 1990), the Commission heard witnesses and visited Romania. The report of the Commission will be examined at its fourth session (25-28 March 1991).

B. Representations submitted under article 24
of the ILO Constitution

Representation concerning Turkey

26. The representation concerning Turkey, presented by the General Confederation of Norwegian Trade Unions under article 24 of the Constitution with regard to 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), was examined by the Committee on Freedom of Association together with numerous complaints presented by a number of international trade union organisations (Cases Nos. 997, 999 and 1029). At its 245th, 246th and 247th Sessions (February, May-June and November 1990), the Governing Body approved the interim conclusions of the Committee on Freedom of Association.

Representation concerning Argentina

27. At its 246th Session (May-June 1990) the Governing Body approved the 247th Report of the Committee on Freedom of Association concerning the representation presented by the Industrial Union of Argentina concerning the application of the Freedom of Association and the Right to Organise Convention, 1948 (No. 87) (Case No. 1455) as well as complaints (Cases Nos. 1456, 1496 and 1515) presented by several trade unions on the same subject. The Governing Body took note of the report of the direct contacts mission to Argentina (19-23 March 1990).

Representation concerning Mauritania

28. The Committee established to examine the representation presented by the National Confederation of Workers of Senegal (CNTS) 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), adopted its report. The report was approved at the February-March 1991 Session of the Governing Body which declared the procedure closed and recommended to the Government, on the basis of the representation, that - in particular - relevant information be communicated with the reports on the Conventions in question.

Representation concerning Iraq

29. At its 248th Session (November 1990) the Governing Body established a tripartite committee to examine the representation presented by the Federation of Egyptian Trade Unions alleging non-observance by Iraq of the Protection of Wages Convention, 1949 (No. 95), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No.

111), and the Equality of Treatment (Social Security) Convention, 1968 (No. 118). The first meeting of the Committee was held in December 1990.

Representation concerning the Libyan Arab Jamahiriya

30. The procedure concerning the representation presented by the Federation of Egyptian Trade Unions 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), was suspended by a decision of the Governing Body at its 240th Session (May-June 1988), pending results of negotiations between the interested parties. The procedure remains suspended.

C. Special procedures concerning freedom of association

31. At each of its last three meetings (May 1990, November 1990 and February 1991), the Committee on Freedom of Association has had before it an average of 70 cases concerning more than 40 countries from all parts of the world; cases for which it presented interim or definitive conclusions, or cases of which the examination has been adjourned pending the arrival of information from the governments (272nd-277th Reports). Some of these cases have been before the Committee on two occasions. Moreover, since March 1990, nearly 50 new cases were submitted to the Organisation.

32. The Committee has noted that the Committee on Freedom of Association of the Governing Body recommended that the Committee's attention be drawn to certain aspects of the conclusions adopted on a number of the cases it examined. These cases included those concerning Australia (Case No. 1511), Barbados (Case No. 1505), Canada/British Colombia (Case No. 1547), Costa Rica (Case No. 1483), Dominican Republic (Case No. 1549), Indonesia (Case No. 1431), Morocco (Case No. 1499), Paraguay (Case No. 1341), United Kingdom (Cases Nos. 1518 and 1540) and Turkey (Case No. 1521).

33. 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 Governing Body, at its 240th Session (May-June 1988), referred the complaint submitted by the Congress of South African Trade Unions (COSATU) against the Government of the Republic of South Africa to the United Nations Economic and Social Council. In July 1988, the Secretary-General of the United Nations requested the Government of South Africa to consent to the complaint being referred to the Fact-Finding and Conciliation Commission on Freedom of Association. This request was reiterated in February 1990. On both occasions, the Government replied that it considered that it would be "premature" to refer the complaint to the Commission. In a communication addressed to the Director-General of the ILO on 19 February 1991, the Government consented to the complaint being referred to the Fact-Finding and Conciliation Commission on Freedom of Association. The above communication was forwarded to the Secretary-General of the United Nations for examination by the Economic and Social Council at its

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meeting of May 1991. In accordance with the procedure in force, it will be for the Economic and Social Council to transmit to the Fact-Finding and Conciliation Commission on Freedom of Association, through the ILO Governing Body, all allegations of violations of trade union rights by the Republic of South Africa which it considers should be transmitted.

Functions in regard to other international and regional instruments

A. International Covenant on Economic, Social and Cultural Rights

34. In accordance with the procedure approved by the Governing Body at its 236th Session (May 1987), by a communication dated 26 October 1990, the International Labour Office 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. Five of these reports (Afghanistan, Costa Rica, Dominican Republic, Panama and Yemen) 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. Five reports (Costa Rica, Dominican Republic, Ecuador, Panama and Yemen) concerned the implementation of article 10 of the Covenant which covers protection of maternity, children and adolescents in the context of employment and work.

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

35. In conformity with Article 22 of this Convention, the ILO was represented at the Sixth Session (January-February 1991) of the Committee for the Elimination of Discrimination against Women which is responsible for examining reports on the application of the Convention from States which are parties to it. At the invitation of the above Committee, the Office submitted a report to the session on the application of the Convention in the areas which are within the scope of its activities.

C. European Code of Social Security and Protocol thereto

36. In accordance with the established supervisory procedure, 15 reports on the European Code of Social Security and the Protocol thereto, which had been submitted by the States having ratified these instruments, were sent to the Office by the Secretary-General of the Council of Europe. After examining all these reports, the Committee was able to observe that the great 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, chief administrator of the Social Security Division. 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 Lisbon in October 1990. As in previous years, the Steering Committee approved the conclusions of the Committee of Experts.

37. The Committee was informed that the revised European Code of Social Security was opened for signature on 6 November 1990 at Strasbourg. To date, the governments of the following countries have signed the above Code: Belgium, Cyprus, Finland, France, Germany, Greece, Italy, Luxembourg, Norway, Sweden, Turkey.

D. European Social Charter and Additional Protocol

38. 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 97th, 98th, 99th and 100th Sessions of the Committee of Independent Experts set up to supervise the application of the Charter, held in Strasbourg, respectively, in April, May, July and October 1990. Furthermore, a representative of the International Labour Office attended the first meeting, held in Strasbourg in February 1991, of the Committee for the European Social Charter responsible for making proposals to improve the effectiveness of the European Social Charter, particularly as regards the operation of its supervisory machinery.

39. In addition, the Committee was informed that the European Social Charter was ratified by Belgium on 16 October 1990 and came into force for that country on 15 November 1990. Moreover, the Additional Protocol to the European Social Charter, which was opened for signature on 5 May 1988 at Strasbourg has been signed by the following countries: Austria, Cyprus, Finland, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Spain, Sweden and Turkey, and was ratified by Sweden on 5 May 1989 (3 ratifications are necessary for its entry into force).

Collaboration with other international organisations

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

40. 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.

41. 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 these reports have also been sent to the Inter-American Indian Institute of the Organisation of American States. 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 (see in this regard paragraphs 21 to 23 of this year's General Survey by the Committee).

42. These organisations were invited to be represented at the sittings of the Committee of Experts at which the Conventions in question were discussed. A representative of the United Nations attended the present session of the Committee.

Matters relating to human rights

43. The Committee is fully aware that international labour standards embody the human rights that fall within the mandate of the ILO. It is the Committee's practice to note developments in this area in its General Report.

44. The Committee was informed that the Director-General wrote to the United Nations Under-Secretary-General for Human Rights and to the Administrator of the UNDP, who are the joint authors of a circular letter on technical co-operation and human rights addressed to all UNDP resident representatives, expressing his agreement and support and suggesting that the three bodies concerned should pursue their consultations on this subject. In May 1990, the Director-General met with the Under-Secretary-General for Human Rights, and a joint working group was established composed of representatives from the ILO and the Centre for Human Rights, with a view to a closer co-operation between the two organisations in the field of technical assistance in matters of human rights. The Committee has noted these developments with great interest. It is convinced that any activities undertaken as part of this co-operation will contribute to greater respect for and the effective realisation of human rights and the corresponding ILO standards.

45. The Committee has noted that, on 18 December 1990, the United Nations General Assembly adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Committee draws attention to the obvious links between this important Convention and the mandate, objectives and relevant standards of the ILO, as does the preamble to the new instrument. The Committee has therefore noted with interest that, in accordance with Article 74 of the Convention, the ILO will be directly associated in supervising its implementation. The Committee expects that the ILO will make an effective contribution to the application of the Convention on the protection of the rights of migrant workers, just as it has in respect of other United Nations instruments.

Questions concerning the application of Conventions

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

46. This year the Committee was able to examine a relatively limited number of reports, and in some cases, in the absence of new information, it was only able to repeat its earlier comments. None the less, some general conclusions may be drawn from the 1988-90 exercise.

47. Towards the end of the period of review, the rise in production and employment noted in the Committee's last report seems to have flattened out. Growth has slowed, inflation appears to be increasing, and unemployment - which decreased in the upturn - has again started to increase, threatening to wipe out the gains. Apart from its economic and financial burden, unemployment is discriminatory and unevenly spread: information received shows the persistence or aggravation of long-term unemployment and its unequal impact on different groups of the population. The problems of employment, unemployment and underemployment are undiminished in developing countries, most of which are primary producers and derived no benefit from the period of growth in the industrialised countries. Faced with internal problems such as structural adjustment, and external debt, developing countries (and most especially the "least developed countries") seem more than ever trapped in a vicious circle of stagnation, recession, inflation, unemployment and poverty.

48. This overview should not give the impression that the countries which have ratified the Convention do not take its aims very seriously. The reports show their concern and the efforts made and measures taken, in the framework of employment policies, that are "appropriate to national conditions and practices". However, they seem to confirm, sometimes explicitly, this point made by the Director-General in his Report to the 75th Session of the Conference (1988), that for many countries full employment appears to be an impossible aim and has ceased to be a "major goal", as required by Article 1 of the Convention. Stabilisation and structural adaptation of the economy have been given higher priority in the catalogue of objectives of political economy. Most reports show that governments are considering "active" or "passive" employment policy measures. Among "active" measures, education and training policies related to employment and general development policies are, it is noted with satisfaction, receiving much greater attention as is necessary in a period of technological change and economic restructuring so as to maintain productivity and competitiveness. Such actions are particularly in evidence in the Committee's General Survey this year of the human resources development Conventions and Recommendations.

49. The Committee will continue to draw attention to these developments which, by widening the distance between the standard and its practical application threaten the central principle of the Convention. It must at the same time emphasise that States party to the Convention have committed themselves to formulating and applying "as a major goal, an active policy designed to promote full, productive and freely chosen employment". In connection with this,

the Committee notes with interest that, due in part to the efforts of the ILO, the International Development Strategy for the United Nations Fourth Development Decade gives prominence to the concern for the creation of productive employment and the development of human resources.

50. The Committee has continued to follow closely the application of the Convention in Eastern and Central Europe. Strategies for the transition to a market economy are being adapted to the conditions in each country which show differing speeds of reform, means of implementation and apportionment of the costs that need inevitably to be borne. Some members of the Conference Committee on the Application of Standards rightly stressed both what had been achieved and also what was promised by these changes. However relevant, such developments are bound to be in many ways disruptive, particularly in respect of the employment market, as the reports received show. The problems of redistribution and mobility of labour, unemployment, and the levels of wages and incomes pose problems for governments. Their reports indicate measures taken to create a legislative and institutional framework, so as to organise the new labour markets and implement an overall employment policy as part of the process of transforming society. The Committee notes with interest that these efforts have been and continue to be guided by the ILO's standards and supported by its technical co-operation, especially in the process of drafting legislation on employment or assisting in the organisation of employment services. The Committee reiterates its concern that the social protection of workers affected by reforms should be given the highest priority. The Committee notes the measures taken or envisaged to this end. It would encourage governments to continue working for the promotion of the social goals during the economic transformation. In this respect, social dialogue and the consultation of the social partners in the letter and the spirit of Article 3 of the Convention have special importance, which the Committee would stress.

Application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

51. The Committee has noted communications from several national employers' organisations and one organisation of workers of the member States of the European Communities referring to the growing problems concerning the rights and obligations deriving from the ILO Constitution and Convention No. 144 for the countries that have ratified it, in relation to the regulations and practice followed by the relevant authorities of the European Communities.

52. The Committee refers to the comments that it has been making for several years on this matter and recalls that the question of the relation between the rights and obligations deriving from the ILO Constitution and the rights and obligations deriving from treaties establishing regional groupings was discussed by the Governing Body in 1981.

53. The Committee notes the concern expressed by the Council and the Commission of the Community in the decision of the Council of 22

December 1986 that full respect for Convention No. 144 should be ensured in the preparation of draft instruments of the ILO, on subjects which are of the exclusive competence of the Community. The Committee reiterates the hope that the same concern will be shown when instruments are submitted to the competent authorities and that "effective" consultations will be genuinely ensured at the national level in full observance of Articles 2 and 5 of Convention No. 144.

Application of the Labour Administration
Convention, 1978 (No. 150)

54. Reports on this Convention were requested this year from the 34 States that have ratified it and the Committee takes this opportunity to make some general observations on its supervisory work. In providing for a co-ordinated and effective labour administration that ensures appropriate co-operation with employers and workers, Convention No. 150 refers to activities that are dealt with in detail in several other instruments - for example the instruments on labour inspection, employment services, employment policy, human resources development and tripartite consultations. The important promotional aspect of this Convention is that it provides for labour administration bodies that deal with all matters relating to labour policy, including its international aspects, and that it provides for their responsibilities to be extended both by making their services and advice available to employers and workers and by dealing with workers who are not employees and therefore do not have an employment relationship.

55. During the ten years since the Convention came into force, the Committee has sought all available information on the structure and functioning of the labour administration system in each country. Many governments have provided extensive information for which the Committee expresses its appreciation, particularly as such information is useful to the relevant technical departments of the International Labour Office, including the regional labour administration centres. In practice, Convention No. 150 serves as a framework for much of the Office's research and related co-operation activities relating to labour administration in both developing and industrialised countries. From this standpoint, the Committee is of the view that the ratification of the Convention and its application in the full meaning of the term could be the linchpin of a closer relationship, at national level, between international labour standards and technical co-operation activities. The Committee attaches great importance to the Office's promotional activities in connection with the Convention, and it recommends States that have not already done so to ratify it. It notes that the provisions of the Convention are sufficiently flexible to be adapted to national circumstances in countries with different types of labour administration structures. The Committee hopes that the governments of States which are bound to do so will provide full information on the application of the Convention in all areas of activity relating to labour administration (as listed, for example, in the Labour Administration Recommendation (No. 158), accompanying the Convention). The Committee trusts that organisations

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of employers and workers will make the most of the opportunities offered by Convention No. 150.

Matters relating to "international" shipping registers

56. The Committee has noted that the application of Conventions Nos. 87, 98 and 111 on board ship has given rise to difficulties in the case of one member State that has opened a "second" shipping register (sometimes called an "international" register). As the Committee has pointed out in its General Survey of 1990 on Labour Standards on Merchant Ships (paragraphs 13 and 14) the purpose of such registers - which currently exist in several States - is to remedy the loss of employment and revenue to all concerned in the shipping industry in the "traditional" maritime countries whose fleets have been reduced in size as a result of considerable transfers of vessels to registers of other countries known as "open-register countries". Ships registered in "second registers" are different from those registered in "normal" registers in that they are exempt from taxation; this exemption may extend to personal taxation on the earnings of crew members who are not nationals of or resident or domiciled in the country of registration; the shipowner or manager may thus in practice have an added incentive to employ foreign seafarers on board their ships. Another problem may arise as to some aspects of conditions of employment on such ships (such as collective bargaining and the level of take-home pay), as they may be governed by several collective agreements (see the observations addressed to Denmark on the application of Conventions Nos. 87, 98 and 111). Specific problems may arise in connection with the right to organise and collective bargaining, and equal treatment as persons with comparable qualifications and performing work of equal value, especially on the same ship, may be subject to different conditions of employment, and particularly different remuneration.

57. As it has already stated, the Committee considers that this situation calls for a detailed examination. Certain questions - including social security issues - have been addressed in the context of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), itself, or in the Conventions referred to in its Appendix (see, for example, the above General Survey). Other questions may not be easy to deal with in the appropriate manner in the context of Convention No. 111 which does not explicitly cover discrimination on grounds of nationality. However, any indirect discrimination arising on grounds set out in Article 1(1)(a) of the Convention, such as race, colour, national extraction, social origin or religion, is covered by the Convention. In any event, the Committee considers that it would be desirable, as was suggested by the Government representative of Denmark at the Conference Committee in 1989, for the question of "international" shipping registers to be discussed as such in an appropriate body. The Committee wishes to draw the attention of the competent bodies of the ILO to these matters with a view to their being examined.

Application of Conventions to offshore industrial installations

58. 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. 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.

Application of Conventions in export processing zones or enterprises

59. 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.

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

A. Direct contacts and assistance in the field of standards

60. Direct contacts missions took place in Argentina (April 1990) in regard to freedom of association and in the Dominican Republic (January 1991) concerning the situation of Haitian workers on sugar plantations. Advisory missions in the field of standards took place in Australia, Bulgaria, Guinea and Romania.

61. The regional advisers on standards, whose tasks consist essentially in assisting governments in finding solutions to standards-related problems, visited the following countries: Africa: Benin, Cameroon, Congo, Gabon, Ghana, Nigeria, Sao Tome and Principe, Sierra Leone, Swaziland, United Republic of Tanzania, Uganda and Zaire; Americas: Argentina, Belize, Brazil, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Guatamala, Honduras, Jamaica, Mexico, Nicaragua, Paraguay, Saint Lucia, Trinidad and Tobago, Uruguay and Venezuela; Asia and Pacific: Bangladesh, Cook Islands, Fiji, Indonesia, Japan, Malaysia, Nepal, New Zealand, Pakistan, Singapore and Sri Lanka.

62. The programme of internships and seminars designed to familiarise national labour administration officials and representatives of employers' and workers' organisations with the obligations of member States and the standards-related procedures of the ILO continues.

63. During 1990, 22 participants (including a judge from Senegal and a representative of the Organisation of African Trade Union Unity) and eight observers from the following 27 countries received training with the International Labour Standards Department: Angola, Belgium, Brazil, Burkina Faso, Burundi, Cameroon, Côte d'Ivoire, Djibouti,

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France, Germany, Guatemala, Jamaica, Mauritius, Nepal, Nicaragua, Poland, the Republic of Korea, Sao Tome and Principe, Senegal, Switzerland, Swaziland, Togo, Uganda, the United Kingdom, the United States, Yemen and Zaire.

64. During 1990, several regional and subregional seminars were organised on international labour standards: Africa: the Sixth African Subregional Seminar on National and International Labour Standards (French-speaking countries) was held in Cotonou (Benin); a Tripartite Subregional Seminar for the Promotion of Equality of Opportunity and Treatment in Employment in North African Countries was held in Cairo (Egypt); Asia and the Pacific: an Asian and Pacific Workshop on Standards-related Subjects was held in Kuala Lumpur (Malaysia); an Asian and Pacific Regional Symposium on the Promotion of Equality for Women Workers was held in Canberra/Sydney (Australia); an Asian Regional Tripartite Seminar on Freedom of Association was held in Islamabad (Pakistan); an Asian Subregional Seminar on International Labour Standards concerning Rural Development was held in Dhaka (Bangladesh); Americas and the Caribbean: an ILO/Caribbean Congress of Labour Seminar on Freedom of Association for Workers' Organisations of the English-speaking Caribbean was held in Bridgetown (Barbados).

65. Tripartite and non-governmental national seminars promoting and providing assistance relating to standards were held in the following countries: Argentina, Australia, Costa Rica, Germany, Guinea, Hungary, Italy, Malaysia, Nigeria, Pakistan, Papua New Guinea, Paraguay, the United Kingdom, Uruguay, the United Republic of Tanzania, the USSR and Zimbabwe.

B. ILO standards and technical co-operation

66. During 1990 and in January 1991, several workshops were organised on the links between international labour standards and technical co-operation. Two of these workshops, principally designed for ILO officials and experts, were held in Geneva. Furthermore, workshops with the participation of representatives of donor countries or organisations, and representatives of governments, employers and workers were held at the ILO International Centre for Advanced Technical and Vocational Training in Turin (Italy), in Manila (Philippines), where an orientation meeting was also held for members of Parliament, and in Dakar, Senegal. At the end of the year a regional inter-agency meeting was held in Bangkok on indigenous and tribal peoples.

67. The attention of the ILO departments at headquarters and in the field have been drawn to certain of the comments of the Committee of Experts and the Conference Committee which are particularly susceptible to be followed up by technical co-operation. The information received from this follow-up has been made available to the Committee of Experts.

68. For its part, the Committee will continue to point out to governments that it is useful to resort to ILO technical co-operation in cases where the Committee considers that the application of a Convention is coming up against difficulties which this type of co-operation could help to solve.

IV. ROLE OF EMPLOYERS' AND WORKERS' ORGANISATIONS

69. 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.¹ Almost all governments have also indicated the organisations to which they have communicated copies of the information supplied to the ILO on the submission to the competent authorities of the instruments adopted by the Conference² and the reports due under article 19 of the Constitution.

70. 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

71. Since its last session, the Committee has received 183 observations, 56 of which were communicated by employers' organisations and 127 by workers' organisations. This is the highest number of observations ever received. It shows again 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.

72. The majority of observations received (163) relate to the application of ratified Conventions.³ Twenty observations relate to the reports provided by governments under article 19 of the

¹ A direct request has been addressed to Indonesia.

² Direct requests have been addressed to the following countries: Botswana, Chile, Nigeria and Peru.

³ Austria: "Organisations of workers" on Conventions Nos. 87, 95, 98, 103 and 122; Bangladesh: Bangladesh Employers' Association on Conventions Nos. 11, 14, 22, 27, 29, 87, 98, 106 and 144; Bangladesh Workers' Federation on Conventions Nos. 87 and 98; Barbados: The Barbados Sugar Industry Limited on Convention No. 111; Belgium: Federation of Belgium Enterprises on Convention No. 144;

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Brazil: "Gaucha" Association of Labour Inspectors on Convention No. 106; Unique Workers' Central on Convention No. 98; Denmark: Danish Seaman's Union on Convention No. 98; Dominican Republic: Confederation of Independent Workers on Conventions Nos. 87, 95 and 98; Fiji: Fiji Trade Union Congress on Conventions Nos. 87 and 98; Finland: Central Organisation of Finnish Trade Unions (SAK) on Conventions Nos. 98 and 130; Commission for Local Authority Employers (KT) on Convention No. 144; Employers' Confederation of Service Industries (LTK), Finnish Employers' Confederation (STK) on Convention No. 98; France: General Confederation of Labour "Force-Ouvrière" (CGT-FO) on Convention No. 144; French Democratic Confederation of Labour (CFDT) on Conventions Nos. 14, 97, 98, 106, 111 and 144; Democratic Confederation of Labour/Rhône-Alpes Union on Convention No. 81; National Union of Labour Directors in the Ministry of Agriculture on Convention No. 129; Germany: German Confederation of Trade Unions (DGB) on Conventions Nos. 29, 81, 88, 102, 105 and 150; Public Service, Transport and Communications Workers' Union on Convention No. 22; Greece: Greek General Confederation of Labour on Conventions Nos. 87, 98 and 105; Panhellenic Federation of Catering and Tourist Industry Employees on Convention No. 98; Guatemala: Co-ordinating Committee of Agricultural, Commercial, Industrial and Financial Associations on Conventions Nos. 26, 99 and 131; Italy: General Confederation of Industry on Convention No. 144; Japan: Japanese Trade Union Confederation (RENGO) on Conventions Nos. 87, 122 and 142; Mexico: National Co-ordinating Committee of Mexican Airlines Dismissed Workers on Conventions Nos. 52 and 95; Morocco: Democratic Confederation of Labour, General Workers' Union of Morocco on Conventions Nos. 2, 4, 11, 12, 26, 29, 81, 98, 99, 100, 105 and 122; Netherlands: Confederation of Netherlands Trade Union Movement (FNV) on Conventions Nos. 87, 144 and 145; Federation of Netherlands Industry on Conventions Nos. 87, 122, 128, 140 and 144; New Zealand: New Zealand Council of Trade Unions on Conventions Nos. 14, 44, 52 and 122; Peru: National Federation of Mine, Metallurgy and Siderurgy Workers of Peru on Convention No. 29; Portugal: Confederation of Portuguese Commerce, General Confederation of Portuguese Workers, General Union of Workers on Convention No. 144; Confederation of Portuguese Industry on Conventions Nos. 122 and 144; Technical State Staff Union on Convention No. 151; Spain: Federation of State Harbour Trimmers on Convention No. 137; General Workers' Union (UGT) on Conventions Nos. 77, 78, 111, 132, 140, 144 and 150; Trade Union Confederation of Workers' Commissions on Conventions Nos. 17, 44, 97, 122 and 140; Sri Lanka: Ceylon Workers' Congress on Conventions Nos. 11, 98, 106 and 135; Employers' Federation of Ceylon on Conventions Nos. 11, 98 and 135; Lanka Jathika Estate Workers' Union on Conventions Nos. 11, 96, 98, 106 and 135; Switzerland: Swiss Workers' Union on Convention No. 87; Trinidad and Tobago: Staff Association of the Central Bank of Trinidad and Tobago on Conventions Nos. 87 and 98; Turkey: Turkish Confederation of Employers' Associations on Conventions Nos. 11, 88, 95, 102, 111 and 115; United Kingdom: Confederation of British Industry on Convention No. 144; Trades Union Congress (TUC) on Conventions Nos. 87, 98 and 122;

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Constitution relating to the Paid Educational Leave Convention (No. 140) and Recommendation (No. 148), 1974, as well as to the Human Resources Development Convention, (No. 142) and Recommendation (No. 150), 1975.¹

73. The Committee notes that, of the observations received this year, 102 were transmitted directly to the ILO, which, in accordance with established practice, referred them to the governments concerned for comment. In 81 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.

74. The Committee also examined a number of other observations by employers' and workers' organisations whose examination had been postponed from the last session, because the observations of the organisations or the replies of the governments had arrived just before or just after the session. It had to postpone the examination of a number of observations to its next session, when they were received too close to or even during the Committee's meeting, so as to allow sufficient time for the governments concerned to make comments and for the Committee to consider the matters involved.

75. The Committee notes that in most cases the organisations of employers and workers had endeavoured to gather and present precise

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Venezuela: Venezuelan Federation of Chambers and Associations of Commerce and Production on Conventions Nos. 22, 81, 95, 128, 130, 144 and 150; Yugoslavia: Union of Independent Trade Unions of Kosovo on Conventions Nos. 29, 87, 98, 105 and 111.

In addition, observations have been received from the International Organisation of Employers on the application in Australia of Conventions Nos. 87 and 98; from the International Confederation of Free Trade Unions on the application in Cuba of Conventions Nos. 1, 29, 87, 95, 105, 111 and 122 and in Myanmar of Convention No. 29; from the International Union of Food and Allied Workers' Associations on the application in Greece of Convention No. 98; and from the International Federation of Plantation, Agricultural and Allied Workers on the application in India of Convention No. 107.

¹ Austria: Austrian Congress of Chambers of Workers; Bangladesh: Bangladesh Employers' Association; Colombia: National Association of Manufacturers; Fiji: Fiji Trade Unions Congress; Finland: Finnish Employers' Confederation (STK), Employers' Confederation of Service Industries (LTK), Central Organisation of Finnish Trade Unions (SAK), Confederation of Salaried Employees in Finland (TVK), Confederation of Unions for Academic Professions (Akava); India: Bharatiya Mazdoor Sangh, National Labour Organisation; Japan: Japanese Trade Union Confederation (RENGO); Malaysia: Malaysian Employers' Federation, Malaysian Trades Union Congress; Portugal: Confederation of Portuguese Industry; Spain: General Union of Workers (UGT); Sri Lanka: Employers' Federation of Ceylon, Lanka Jathika Estate Workers' Union, Ceylon Workers' Congress; Turkey: Turkish Confederation of Employers' Associations.

facts on the application in practice of ratified Conventions. It notes that the matters dealt with in these observations have touched on a very wide range of Conventions relating to the following subjects: protection of the right to organise and the right to collective bargaining, discrimination, forced labour, employment policy, labour inspection, tripartite consultations relating to international labour standards, maritime labour.

76. The Committee finally notes that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), has now received 50 ratifications. The Committee hopes that, in accordance with the favourable ratification prospects noted in the General Survey on the Convention in 1982,¹ many further countries will be able to ratify it, all the more since some have recently adopted provisions to establish tripartite bodies for ILO activities, with reference to the 1976 instruments.

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

Supply of reports

77. 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.

78. 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 1990, were due to be examined this year in respect of 38 Conventions.² 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

79. A total of 1,958 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, 1,409 of these reports had been received by the Office. This figure corresponds to 71.9 per cent of the reports requested, compared with 73.0 per cent last year. The Committee regrets that, as indicated in paragraph 92 below, a number of reports received are incomplete and do not enable it to reach conclusions

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

² Conventions Nos. 8, 11, 14, 21, 22, 23, 24, 25, 44, 52, 55, 56, 71, 77, 78, 82, 84, 87, 94, 95, 97, 98, 101, 106, 107, 111, 114, 115, 117, 122, 124, 130, 132, 140, 143, 144, 145, 150.

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.

80. In addition, 400 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, 322 reports, or 80.5 per cent, had been received by the end of the Committee's session, in comparison with 75.9 per cent in 1990. 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.

81. Apart from the above-mentioned reports, 21 governments also supplied general reports on the Conventions for which detailed reports were not due for the period under review: Belize, Barbados, Belgium, Brazil, Burundi, Canada, Chile, Cuba, Cyprus, Ethiopia, Mozambique, New Zealand, Poland, Rwanda, Sao Tome and Principe, Saudi Arabia, Sri Lanka, Suriname, Switzerland, Turkey, United States.

82. 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

83. 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, 37 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: Angola, Benin, Burkina Faso, Cambodia, Cape Verde, Central African Republic, Colombia, Djibouti, Dominica, El Salvador, Guinea, Guinea-Bissau, Guyana, Italy, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mongolia, Niger, Pakistan, Panama, Papua New Guinea, Peru, Saint Lucia, Seychelles, Singapore, Solomon Islands, Thailand, Trinidad and Tobago, Republic of Yemen, Yugoslavia, Zimbabwe, New Zealand (Tokelau). No reports have been received for the past two years from the following countries: Grenada, Mauritania, Netherlands (Aruba), Sierra Leone.

84. 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 often seems likely that some particular problem of an administrative or technical nature is preventing the government concerned from fulfilling its

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obligations under the ILO Constitution, 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

85. 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.

86. 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 1990 the proportion of reports received was only 9.6 per cent. 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 1990.

87. 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.

88. 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

89. A total of 85 first reports of the 105 due 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); Netherlands: Aruba (Conventions Nos. 114, 121, 126, 129, 131, 135, 137, 140, 141, 142, 144, 145, 146 and 147), and since 1989: Netherlands: Aruba (Convention No. 138); Venezuela (Convention No. 138). 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

90. 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 40 governments contacted in this way, only nine have sent the information requested.

91. 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.

92. This represents a total of 299 cases,¹ in comparison with 220 last year and 177 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.

¹ Afghanistan (Conventions Nos. 95, 140); Angola (Conventions Nos. 107, 111); Bahamas (Conventions Nos. 42, 94, 105, 117, 144); Benin (Conventions Nos. 87, 98, 111, 143); Burkina Faso (Conventions Nos. 87, 95, 98, 111, 132, 143, 150); Cape Verde (Conventions Nos. 98, 111); Central African Republic (Conventions Nos. 41, 52, 62, 87, 94, 95, 111, 117, 118); Colombia (Conventions Nos. 22, 25, 87, 95, 106, 107); Djibouti (Conventions Nos. 18, 22, 23, 24, 44, 55, 56, 71, 77, 78, 87, 88, 94, 106, 115, 122); El Salvador (Convention No. 107); Grenada (Conventions Nos. 14, 29, 94, 95, 105); Guinea (Conventions Nos. 87, 94, 98, 111, 115, 118, 122, 132, 139, 140, 143, 151); Guinea-Bissau (Conventions Nos. 18, 98, 111); Guyana (Conventions Nos. 42, 87, 95, 98, 111, 115, 140, 144, 149, 150); Italy (Conventions Nos. 95, 97, 111, 122, 145, 150); Jamaica (Conventions Nos. 87, 97, 98, 117); Kuwait (Conventions Nos. 87, 89, 106, 111, 117); Lebanon (Conventions Nos. 1, 15, 30, 77, 78, 89, 90, 98, 111, 115, 120, 122, 127, 131); Liberia (Conventions Nos. 22, 23, 29, 55, 87, 92, 98, 105, 108, 111, 114, 147); Libyan Arab Jamahiriya (Conventions Nos. 29, 52, 81, 88, 95, 98, 100, 102, 105, 111, 121, 122, 128, 130); Madagascar (Conventions Nos. 111, 120, 124, 127, 129, (footnote continued on next page)

93. 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 on time.

Examination of reports

94. 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

95. 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

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132); Malaysia (Conventions Nos. 88, 95, 98); Malawi (Conventions Nos. 111, 144); Mauritania (Conventions Nos. 22, 87, 94, 111, 118, 122); Mongolia (Conventions Nos. 87, 111); Niger (Conventions Nos. 87, 95, 98, 100, 111); New Zealand (Tokelau) (Conventions Nos. 100, 111); Pakistan (Conventions Nos. 22, 29, 87, 98, 105, 107, 111); Panama (Conventions Nos. 8, 22, 52, 55, 56, 71, 73, 87, 94, 98, 107, 111, 114, 117, 122); Papua New Guinea (Conventions Nos. 8, 42, 98, 122); Netherlands (Aruba) (Conventions Nos. 11, 14, 81, 87, 94, 95, 101, 105, 106, 122); Peru (Conventions Nos. 22, 24, 25, 29, 44, 55, 56, 77, 78, 79, 107, 111, 122, 156); Saint Lucia (Conventions Nos. 87, 94, 95, 97, 98, 111); Seychelles (Conventions Nos. 8, 87, 99); Sierra Leone (Conventions Nos. 8, 17, 29, 59, 81, 88, 95, 98, 100, 101, 105, 111, 119, 125, 126, 144); Singapore (Conventions Nos. 8, 98); Solomon Islands (Conventions Nos. 8, 29, 81, 95); Sweden (Convention No. 111); Thailand (Conventions Nos. 29, 105); Trinidad and Tobago (Conventions Nos. 87, 111, 125); Republic of Yemen (North Yemen) (Conventions Nos. 29, 81, 87, 98, 100, 111, 132, 135), (South Yemen) (Conventions Nos. 29, 95, 98); Yugoslavia (Conventions Nos. 111, 122, 132, 140, 142, 148, 158).

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

96. 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 1991.

97. 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

98. 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 48 instances in which measures of this kind have been taken in 35 States and 4 non-metropolitan territories. The full list is as follows:

| <u>States</u> | <u>Conventions Nos.</u> |
|------------------|-------------------------|
| Algeria | 87 |
| Argentina | 107 |
| Bahrain | 89 |
| Belgium | 13 |
| Benin | 18 |
| Bolivia | 107 |
| Brazil | 105, 111 |
| Bulgaria | 87, 111 |
| Byelorussian SSR | 87 |
| Chile | 111 |
| Colombia | 3, 87, 98 |
| Cyprus | 143, 106 |
| Finland | 87 |
| Germany | 111 |
| Hungary | 87, 111 |
| Iceland | 87 |
| Italy | 105 |
| Madagascar | 87 |
| Mali | 87 |
| Mauritania | 81 |

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| <u>States</u> | <u>Conventions Nos.</u> |
|-------------------------------------|-------------------------|
| Peru | 87 |
| Poland | 98 |
| Portugal | 124 |
| Romania | 29, 87 |
| Rwanda | 111 |
| Senegal | 111 |
| Seychelles | 58 |
| Turkey | 111 |
| Ukrainian SSR | 87 |
| United Kingdom | 148 |
| Uruguay | 131, 132 |
| USSR | 87, 111 |
| Venezuela | 87 |
| Yugoslavia | 126 |
| Zambia | 105 |
| <u>Non-metropolitan territories</u> | |
| <u>Denmark</u> | |
| Faeroe Islands | 53 |
| <u>Netherlands</u> | |
| Netherlands Antilles | 33 |
| <u>United Kingdom</u> | |
| Guernsey | 148 |
| Saint Helena | 8 |

99. 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 1,898 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.

100. 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

101. 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.

102. The Committee notes with regret that this year only some 49 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 1990, which represented 56 per cent, and a good deal lower than the 63 per cent of 1989. The Committee cannot but be concerned by such a 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.

103. The following countries have provided information on practical application in more than half the reports concerned: Argentina, Australia, Austria, Barbados, Belgium, Canada, Chile, Cyprus, Czechoslovakia, Denmark, Finland, France, Germany, Greece, Haiti, India, Indonesia, Ireland, Kenya, Madagascar, Mauritius, Netherlands, New Zealand, Niger, Philippines, Poland, Portugal, Spain, Sweden, Thailand, Turkey, United Kingdom, Venezuela, Zambia.

104. 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.

105. 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.

106. 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 24 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.

107. 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, in particular in matters of basic human rights, including cases of discrimination. 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)

108. In accordance with its terms of reference, the Committee this year examined the following information¹ supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organisation:

- (a) information on the steps taken to submit to the competent authorities within the time-limit of 12 or 18 months, as provided for in the Constitution, the following instrument adopted at the 76th Session of the Conference (1989): the Indigenous and Tribal Peoples Convention (No. 169);
- (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 75th (Maritime) Session (1988) (Conventions Nos. 87 to 168 and Recommendations Nos. 83 to 176);
- (c) replies to the observations and direct requests made by the Committee in 1990.

76th Session

109. The Committee notes with interest that the governments of the following member States have indicated that they have submitted to

¹ ILO: Summary of information on the submission to the competent authorities of Conventions and Recommendations adopted by the International Labour Conference, Report III (Part 3), International Labour Conference, 77th Session, Geneva (1990).

the authorities considered by them to be competent the instrument adopted by the Conference at its 76th Session: Australia, Bahamas, Barbados, Byelorussian SSR, Canada, China, Côte d'Ivoire, Cuba, Denmark, Egypt, Ethiopia, Finland, France, Ghana, Iceland, Indonesia, Islamic Republic of Iran, Italy, Japan, Jordan, Kuwait, Luxembourg, Malaysia, Malta, Mauritania, Mauritius, Mexico, Mozambique, Myanmar, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Singapore, Togo, Tunisia, Turkey, Ukrainian SSR, United Arab Emirates, United Kingdom, USSR.

31st to 75th Sessions

110. 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: Guinea (68th to 75th Sessions), Mauritania (68th to 76th Sessions), Mauritius (72nd to 76th Sessions and certain instruments from the 63rd and 67th Sessions), Netherlands (70th, 72nd and 75th Sessions and certain instruments from the 67th and 71st Sessions), San Marino (68th and 71st to 76th Sessions), Sao Tome and Principe (68th to 76th Sessions).

111. 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 76th Sessions of the Conference.

General aspects

112. The Committee notes with concern that many countries are late - sometimes very late - in submitting to the competent authorities 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.

113. 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

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each country on the Conventions and Recommendations adopted by the Conference.

Comments of the Committee and replies from governments

114. 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 three 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: Mauritania, San Marino, Sao Tome and Principe. 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.

115. 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.

116. 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

117. The Committee notes with regret that no information has been supplied by the following countries showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions (69th to 76th)¹ have in fact been submitted to the competent authorities: Antigua and Barbuda, Belize, Congo, Dominican Republic, Grenada, Haiti, Kenya, Pakistan, Papua New Guinea, Paraguay, Saint Lucia, Seychelles, Sierra Leone, Suriname. The increase in relation to the past two years in the number of countries that are lagging so far behind in this respect is one of the Committee's main concerns. Indeed, there is a danger that certain countries may find it difficult if not impossible to bring themselves up to date. What is more, neither the legislative authorities nor public opinion in these countries are regularly informed of the existence of new instruments as the Conference adopts them, which defeats the real purpose of the obligation to submit explained in paragraph 113 above.

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

However, the Committee would like to point out once again that the obligation of submission does not imply that Governments must ratify the Conventions or accept the Recommendations in question. The Committee therefore expresses the firm hope that the governments concerned will promptly undertake to submit the instruments of the sessions indicated and that it will be able to note the progress made in this respect in its next report. The Committee again recalls that governments have the possibility of asking the International Labour Office for the technical assistance it is able to extend to them to attempt to solve this type of problem.

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

118. During the past year, the Member States of the EEC have provided no further information on the consultations with the social partners that were undertaken a few years ago concerning the possible ratification of the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153). It should be noted, however, that these States submitted this instrument, together with the corresponding Recommendation, years ago but made no proposals to the competent legislative authorities of their respective countries, thus discharging partly their obligation under article 19 of the ILO Constitution. The Committee recalls that it discussed this question at length in its General Report of 1990, paragraphs 113 to 115.

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

119. 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 Paid Educational Leave Convention, 1974 (No. 140), and Recommendation (No. 148), and the Human Resources Development Convention, 1975 (No. 142) and Recommendation (No. 150).

120. Of a total of 523 reports requested, 281 have been received.¹ This represents 53.7 per cent of the reports requested.

121. More particularly, the Committee notes with regret that Angola, Cambodia, El Salvador, Fiji, Grenada, Libyan Arab Jamahiriya, Papua New Guinea, Paraguay, Saint Lucia, Sierra Leone, the United Republic of Tanzania, Uganda and the Republic of Yemen have not, for the past five years, supplied any of the reports on unratified Conventions and Recommendations requested under article 19 of the ILO Constitution.

¹ ILO: Summary of reports (articles 19, 22 and 35 of the Constitution), Report III (Parts 1, 2 and 3), International Labour Conference, 78th Session, 1991.

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122. 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

123. Part Three of this Report (issued separately as Report III (Part 4B)) 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 three members of the Committee, appointed by it.

* * *

124. 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, 20 March 1991.

(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

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).

Angola

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.

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.

Djibouti

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

Grenada

The Committee notes with regret that, for the third 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.

Guyana

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

Lebanon

Further to its comments made for a number of years, the Committee notes that the reports due have not been received. It takes note of the evolution in the national situation and hopes that the Government will be able in future to discharge its obligation to supply the reports due on the application of ratified Conventions. The Committee is therefore once again addressing comments to the Government on the application of certain Conventions, the examination of which had been suspended on account of the circumstances.

Libyan Arab Jamahiriya

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

Mauritania

The Committee notes with regret that, for the third 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.

Morocco

The Committee notes that, in a communication dated 5 March 1991, the Democratic Confederation of Labour and the General Union of Moroccan Workers have made comments on the application of Conventions Nos. 2, 4, 11, 12, 26, 29, 81, 98, 99, 100, 105 and 122. In accordance with established practice, these comments have been transmitted to the Government. The Committee requests the Government

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to communicate its observations in respect of the comments presented by the above-mentioned organisations.

[The Government is asked to report in detail on each of these Conventions for the period ending 30 June 1991.]

Nicaragua

The Committee notes that, in a report dated 25 January 1991 concerning Conventions Nos. 1, 8, 12, 29, 30, 77, 78, 85, 105, 115 and 117, the Government refers in general terms to the legislative amendments necessary to bring national legislation into conformity with these Conventions, in accordance with the Committee's comments. In this regard, the Government states that the draft Bill of the Labour Code, which is being elaborated by the Ministry of Labour with the assistance of the ILO, shall be studied in March at a tripartite seminar prior to being submitted to the National Assembly.

The Committee takes note of these indications. Noting also that some of the Conventions cited concern, inter alia, questions which are not covered by the scope of application of the Labour Code and thus require amendments to be made to other legislative texts, and that the Government has sent supplementary reports with its communication of 4 March 1991 concerning, among others, Conventions Nos. 29 and 105, the Committee hopes that all the legislative changes necessary to give effect to the Conventions ratified will be made in the near future and that the Government will provide detailed information on the measures taken.

Solomon Islands

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.

Sierra Leone

The Committee notes with regret that, for the third 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.

South Africa

1. The Committee refers to the general observations it has made since 1982 concerning reports received on the Conventions by which South Africa has remained bound since it withdrew from the ILO in 1964, namely Nos. 2, 19, 26, 42, 45, 63 and 89. It notes that the Government has again supplied reports on all the Conventions in question; these have been examined in the light of the updated

Declaration concerning Action against Apartheid and the Programme of Action against Apartheid annexed to it, as adopted by the International Labour Conference in 1988. In this regard, the Committee has also taken into account information contained in the Special Report of the Director-General on the application of the Declaration concerning Action against Apartheid.

2. The Committee notes that the Government has continued to refer separately in its reports to information relating to those parts of South Africa which constitute the so-called "independent homelands" (or "bantustans") of Transkei, Bophutatswana, Venda and Ciskei as well as those areas which are regarded by it as being self-governing. As the Committee has previously indicated, all of these areas are in its view covered by the ratification of the above-mentioned Conventions, which still apply to them; the creation of the bantustans constituted an important feature of the system of apartheid and their continued existence has been used as a means of controlling the freedoms enjoyed by Black workers as well as the mobility of Black labour, through security legislation and the measures taken to replace the former system of influx control.

3. The Committee accordingly reiterates that in order to give effect to the obligations arising from the ratification of the Conventions, the Government should indicate the position throughout the entire territory of South Africa. At the same time, full information should be provided on the manner in which the application of Conventions within its whole territory including the bantustans and the so-called self-governing area is affected by the existence of apartheid.

4. The Committee notes with interest from the Special Reports of the Director-General that the Government indicated an intention to modify or repeal legislation relating to apartheid in general and in particular to measures relating to the classification of the population by race, residence segregation and ownership of land. The Committee observes that, when enacted, such measures may lessen the adverse effect which apartheid has on labour matters. It remains of the view that international labour standards can only be implemented in practice alongside other basic rights, when apartheid is ended: this presupposes that all persons protected by ratified Conventions are able to benefit equally and without distinction as to race from the institutions created by a constitution designed to establish social justice and full freedom in post-apartheid South Africa.

5. The Committee also notes with interest that the Government has signified its consent to the referral to the Fact-finding and Conciliation Commission on Freedom of Association of the Governing Body of a complaint presented in 1988 by the Congress of South African Trade Unions alleging violation of trade union rights in amendments to the Labour Relations Act; it hopes that this will facilitate an examination of the system of industrial relations and collective bargaining in South Africa in the light of international labour standards.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Antigua and Barbuda, Bahamas, Belize, Benin, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chile, Colombia, Comoros, Congo, Costa Rica, Dominica, Dominican Republic, El Salvador, Guinea, Guinea-Bissau, Honduras, Hungary, Iceland, Indonesia, Iraq, Italy, Kuwait, Liberia, Madagascar, Malawi, Malaysia, Mongolia, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Peru, Saint Lucia, Seychelles, Singapore, Sri Lanka, Syrian Arab Republic, United Republic of Tanzania, Thailand, Trinidad and Tobago, Uganda, USSR, Yemen, Yugoslavia, Zaire, Zimbabwe.

B. INDIVIDUAL OBSERVATIONS

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

Bolivia (ratification: 1973)

The Committee has been formulating comments, since many years, on the necessity to take measures to give full effect to several provisions of Conventions Nos. 1, 20 and 30.

The Government indicates in the reports provided this year that these comments are taken into account in the preliminary drafts revising the General Labour Law, prepared with the technical assistance of the ILO. The Committee trusts that the new legislation will be adopted in the near future and that it will be in full conformity with the above-mentioned Conventions.

Cuba (ratification: 1934)

The Committee notes a communication from the International Confederation of Free Trade Unions (ICFTU), dated 31 January 1991, a copy of which has been transmitted to the Government by a letter dated 19 February 1991. The ICFTU alleges that effect is not given to the provisions of the Convention concerning hours of work and the rules respecting overtime hours. The Committee would be grateful if the Government would make its own observations on these allegations so that the Committee can examine the substance of the question at its next session.

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

Paraguay (ratification: 1964)

The Committee notes the information supplied by the Government according to which it intends to take account, in the preliminary draft of the new Labour Code, of the Committee's previous comments

related to repealing section 205 of the current Labour Code. This section, in certain cases, permits the extension of the normal working day to 12 hours.

The Committee points out that it has been commenting on this matter since 1969 and trusts that the Government will take these measures as soon as possible and that it will report any development to the ILO.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Guatemala, Lebanon, Malta.

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

Convention No. 2: Unemployment, 1919

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

Convention No. 3: Maternity Protection, 1919

Colombia (ratification: 1933)

1. Article 3(a) and (b) of the Convention (total duration of maternity leave). The Committee notes with satisfaction the adoption of Act No. 50 of 28 December 1990, section 34 of which amends section 236 of the Labour Code and provides for the right of women to maternity leave of 12 weeks, which makes it possible to give better effect to these provisions of the Convention. Furthermore, it notes that the extension of the maternity leave set out in section 34 above also applies to women working in the public sector.

The Committee however wishes to draw the Government's attention to certain points that it is raising in a direct request.

2. Furthermore, the Committee hopes that the Government's next report will contain information on the measures that have been taken or are envisaged 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 maternity leave, as set out in section 236 of the Labour Code, as amended by section 34 of Act No. 50 of 1990.

3. Finally, the Committee hopes that the Government's next report will contain information on all progress achieved in extending the territorial coverage of the social security scheme.

Venezuela (ratification: 1944)

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

The Committee takes note of the Government's replies to its previous comments and wishes to point out the following:

With regard to Articles 1 and 3(c) of the Convention (coverage of the social security scheme) and Article 3(d) (rest periods for nursing mothers who are public servants or public employees), the Committee notes that the Government's report supplies no new information on the progress made with regard to the points raised in its previous comments. In this connection, the Committee wishes to point out yet again that certain categories of workers coming under the Convention are not yet covered by maternity insurance, since the social security scheme is not applicable to all workers or all regions of the national territory. The Committee again expresses the hope that this scheme will be extended shortly so that women employed in public or private industrial or commercial undertakings (including public servants or public employees), fully enjoy the protection provided for by the Convention.

With particular reference to Article 3(d), the Committee can only repeat its previous request in the hope that the Government will be able to adopt the necessary measures in the near future to guarantee that the above-mentioned women workers are entitled to interrupt their work for at least half an hour twice a day to nurse their infants. The Committee requests the Government to provide information in its next report on progress made in this respect.

With regard to Article 4 (prohibition of dismissal of women who are public servants or employees), the Committee notes that the Government transmitted the text of its observation on this point to the National Congress in the hope that this might lead to the adoption of legislative measures in line with the Convention. The Committee trusts that the Government will be able to adopt the necessary measures to include in the national legislation a provision making it unlawful for employers to give notice of dismissal to this category of women workers who are absent on maternity leave or remain absent for a longer period as a result of late confinement or illness arising out of pregnancy or confinement, or to give this notice at such a time that it would expire during such absence.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Colombia, Côte d'Ivoire, Germany.

Convention No. 4: Night Work (Women), 1919Nicaragua (ratification: 1934)

The Committee refers to its previous comments in which it 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 such provisions which would be discriminatory towards women. The Government then indicated in another report that consultations were under way with women's organisations and trade union organisations with a view to the ratification of Convention No. 89, which is more flexible. The Committee once again requests the Government to indicate whether these consultations have been completed and, if so, their outcome.

The Committee also considers it useful to recall the comments that it made in 1986 (paragraphs 69 to 71 of the General Report) on the question of the application of Conventions on the night work of women and recalls that, at its 77th Session (1990), the International Labour Conference adopted the Night Work Convention (No. 171) and the Protocol to the Night Work (Women) Convention (Revised), 1948.

Convention No. 5: Minimum Age (Industry), 1919Brazil (ratification: 1934)

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 those in the State of Sao Paulo. It also drew attention to the fact that section 7, paragraph XXXIII, of the federal Constitution of 5 October 1988, although prohibiting the employment of children under 14 years, authorises work by these children as apprentices. The Convention does not provide for such an exception and only allows work done by children in technical schools, provided that such work is approved and supervised by the public authority (Article 3). The Committee therefore requested the Government to take the necessary measures to give full effect to the Convention in both law and in practice.

2. In reply to these comments, the Government indicated both in its report and to the Conference Committee in 1990, that children under 14 years of age are prohibited by the Constitution from working in enterprises listed in Article 1 of the Convention, or in any other enterprises, except for those carrying out apprenticeships. Apprenticeship is defined in sections 1 and 2 of Decree No. 31546 of 6 October 1952. By virtue of this Decree, the employer is obliged to give the apprentice systematic vocational training in the trade in question. The Government had also taken measures to strengthen the inspection services in order to better combat the illegal employment

of children under 14 years in undertakings. Moreover, since under the "Bom Menino" (Good Child) programme, established by Legislative Decree No. 2318 of 30 December 1986, it had been permitted to employ in undertakings minors of between 12 and 18 years old, who were not covered by social and labour regulations, the Ministry of Labour, in Notification No. 273/89 of 4 September 1989, revoked the Legislative Decree No. 2318 on the grounds of its unconstitutionality. With regard to practice, the Committee notes the Government's statement that further efforts will be made, in particular through labour inspection, to put a total and definitive end to child labour.

3. The Committee notes the Government's explanations. It also notes Act No. 8069 of 13 July 1990 enacting the Statute of Children and Adolescents, in particular section 60 of the Act prohibiting the employment of minors under 14 years old, but allowing them to work as apprentices, which is not envisaged by the Convention. It is therefore bound once again to request the Government to bring the legislation into conformity with the Convention on this point, and to take other measures necessary to ensure the application of the Convention both in law and practice.

* * *

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

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

Iraq (ratification: 1966)

1. In reply to the Committee's previous comments, the Government indicates that Articles 2 and 3 of the Convention are covered by section 33 of the new Labour Code of 1987 which provides that a worker who goes to his workplace prepared to work and is prevented from doing so by causes beyond his control shall be considered as having worked and be entitled to his wage. While noting this information, the Committee wishes to draw the Government's attention to the fact that under section 65, subsection 1, of the Labour Code of 1987, the obligation placed on employers to pay workers' wages in the event of work being halted totally or partly owing to exceptional circumstances or a case of force majeure is limited to 30 days, whereas Article 2, paragraph 2, of the Convention lays down a minimum of two months' wages.

The Committee therefore hopes that the Government will take the necessary measures to bring the legislation into conformity with the Convention in this respect.

2. Furthermore, the Committee notes that under section 7 of the Labour Code of 1987, Arab workers employed in Iraq receive the same treatment as Iraqi workers with regard to the rights and obligations provided for in the Code. In this connection, it recalls that the protection laid down in the Convention applies, by virtue of Article 1, paragraph 1, to all persons employed on any vessel engaged in

maritime navigation, irrespective of their nationality. The Committee therefore asks the Government in its next report to indicate the measures that have been taken or are envisaged to ensure that the Convention applies to non-Arab foreign seafarers employed on vessels engaged in maritime navigation flying the Iraqi flag, with the exception of warships.

Jamaica (ratification: 1963)

The Committee notes from the Government's reply to its previous observations that the Jamaican Bill on Merchant Shipping has not yet been submitted to Parliament. This Bill was, among others, 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 is bound once again to reiterate its hope that the above-mentioned Bill will become law in the very near future so as to give full effect to the Convention on this point, which has been the subject of the Committee's concern for many years. It requests the Government to report any progress made in this regard and to supply the text of the new Act as soon as it is adopted.

[The Government is asked to report in detail for the period ending 30 June 1992.]

Panama (ratification: 1970)

The Committee notes that the Government's report has not been received. It also notes the information provided by the Government to the Conference Committee in June 1987, in particular concerning the activities of the Tripartite Maritime Labour Commission, with a view to eliminating the discrepancies with the Convention. It must, however, repeat its previous observation which read as follows:

Article 2 of the Convention. With reference to its previous comments, the Committee noted the information supplied by the Government to the effect that under Part C-II of the Registration Regulations 1-76, of 17 December 1976, the loss or foundering of the vessel involves the loss of the flag, and that consequently, in accordance with section 5 of the Labour Code, section 256 of the same Code, in conjunction with sections 255 and 259, become applicable to establish the indemnities payable to seafarers as a result of the shipwreck of the vessel in which they were serving.

The Committee ventures to point out that the Labour Code contains explicit provisions regarding shipwreck (sections 259 and 225) which are insufficient to give full effect to the Convention and the Committee therefore considers that the provisions referred to by the Government could be misleading, particularly since, as pointed out by the Government itself, it regularly occurs that foreign crews do not resort to the courts because of their apparent ignorance of the national labour

legislation. The Committee also noted that the draft maritime labour legislation, section 49 of which establishes provisions in accordance with the Convention, is still under examination by the Legislative Council. The Committee hopes that the above draft will be adopted in the near future and requests the Government to continue to supply information on any progress achieved in this respect.

Practical application. The Committee also noted the information concerning the operation of the Department of Labour Statistics. It hopes that in the near future this Department will be in a position to compile statistics concerning the application of the Convention, and that the Government will transmit them to the ILO.

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

Seychelles (ratification: 1978)

The Committee 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 Government's reply to its earlier comments that the competent authority will amend the draft Seychelles Merchant Shipping Act, 1983 in conformity with the Convention. The Committee therefore hopes that the draft will soon be adopted so as to give full effect to the Convention by eliminating the limitation contained in section 157 of the United Kingdom Merchant Shipping Act of 1894, which is still in force in the Seychelles. Such a limitation is contrary to the Convention since it subjects the right to indemnity for unemployment in case of loss or foundering of the ship to the condition that the seafarer has exerted himself to the utmost to save the ship, cargo and stores.

The Committee requests the Government to supply any information on the progress made with respect to the adoption of the above-mentioned draft Act and to forward a copy once it has been adopted.

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

Sierra Leone (ratification: 1978)

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

The Committee notes from the reply of the Government to its earlier comments that the necessary amendments to the Merchant Shipping legislation have not yet been adopted so as to abolish, in accordance with the Convention, the bar to the right of a seaman to unemployment indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the

ship, cargo and stores. The Government states, however, that contacts with the Law Officers' Department have been renewed, following important changes of personnel, and it is hoped that the amending legislation can be enacted soon. The Committee therefore hopes that the necessary changes will be made in the near future and requests the Government to report on any progress made on this respect.

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

Tunisia (ratification: 1970)

Article 1, paragraph 2, and Article 2 of the Convention. With reference to its previous comments, the Committee notes with regret that the Government's report contains no information concerning the Bills to amend the Merchant Shipping Code and the Maritime Labour Code which it stated in its previous reports would give effect to Article 1, paragraph 2, and Article 2 of the Convention and of which it had supplied copies. In these conditions the Committee is bound to take up the matter once again in a new request that it is addressing directly to the Government.

[The Government is asked to report in detail for the period ending 30 June 1992.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Belize, Dominica, Fiji, Finland, Papua New Guinea, Portugal, Singapore, Solomon Islands, Tunisia.

Convention No. 9: Placing of Seamen, 1920

Chile (ratification: 1935)

1. In its previous comments, the Committee pointed out that Article 4, paragraph 1, of the Convention required the Government to organise and maintain an efficient and adequate system of public employment offices "for seamen" without charge. The work of employment offices must be administered by "persons having practical maritime experience" (paragraph 2).

The Committee notes the placement activities undertaken by the National Vocational Education and Employment Service, through municipal employment offices, and private employment agencies [Presidential Decree No. 146, of December 1989, to approve the regulations issued under Legislative Decree No. 1, of 1989 respecting training and employment (reproduced only in Spanish by the ILO in the series Documentos de Derecho Social 1990/2, 1989-CHL 1)]. Private employment agencies have to register with the National Service and may be established by a workers' union or a trade union organisation. The

Government considers that it is an efficient and adequate system not only "for seamen", but also for the other workers in the country. In practice, the representative associations of shipowners and the trade unions of seamen maintain constant relations which promote the speedy placement of staff to the satisfaction of both parties. All these operations, according to the Government, are administered by persons with broad practical maritime experience.

The report form adopted by the Governing Body requests data on the number of applications for employment received, the number of vacancies notified and the number of seamen placed in employment. The Government states that there are no special statistics for seamen.

The Committee is bound to emphasise that data on the organisation of the system of offices for finding employment for seamen without charge (see also Article 10, paragraph 1), contribute to ensuring that full effect has been given to the above provisions of the Convention. The Committee therefore trusts that in the near future the Government will be in a position to supply the above data on the placement of seamen in order to ensure the full effectiveness of "an efficient and adequate system of employment offices for finding employment for seamen without charge".

2. Article 5. In its previous comments, the Committee noted that this provision requires committees consisting of "an equal number of representatives of shipowners and seamen" to be constituted. The Committee requested information on cases in which people interested in the welfare of seamen had given assistance to the regional committees of municipal employment offices. In its report, the Government states that there are no special committees consisting of shipowners and seafarers constituted to monitor the efficient and adequate operation of the offices for finding employment for seamen without charge. It adds that in the Vth Region of Puerto de Valparaíso, the principal port in the country, there is a committee consisting of representatives of the maritime sector, who are interested in the welfare of seamen and contribute their assistance and practical maritime experience.

The Committee is bound to express once again the hope that the Government will provide further information on cases in which committees consisting of an equal number of representatives of shipowners and seamen have been consulted in all the aspects of the operation of the offices for finding employment for seamen without charge.

Mexico (ratification: 1939)

1. The Committee notes the Government's report. It notes with interest that in order to respond to its previous comments, information was requested from the Confederation of Workers of Mexico, the Confederation of Chambers of Industry of the United States of Mexico (CONCAMIN), the Secretariat of Communications and Transport, and Petróleos Mexicanos (PEMEX).

2. In its observation of 1989, the Committee requested the Government to indicate the measures that had been adopted to ensure the placement of seafarers in accordance with the requirements of the

Convention, particularly for workers who are not members of a seafarers' representative association and in the case of seafarers' associations which have not concluded collective agreements with a shipowners' association. The Government indicates that the common practice in Mexico is for the placement of seamen to be carried out under the right to exclusive placement agreed to by employers and workers. Workers who are not members apply directly to the enterprises and/or the trade union organisations. In the coastal States where seamen are employed, state employment services serve all applicants without any type of discrimination. The Secretariat of Communications and Transport comments that it is very rare to find cases in which workers are not members of an association representing seamen or of workers' associations which have not concluded collective agreements with a shipowners' association. The Committee notes the collective labour agreements transmitted by the Government: between the National Union of Seamen, Stokers, Butlers, Cooks, Waiters and Allied Workers and an enterprise with the name of Gestión Integral S.A., which provides services to enterprises engaged in sea navigation; and between the Order of Naval Captains and Pilots and Transportes Marítimos México, S.A.

The Committee refers to its observation of 1990 on the application of the Fee-Charging Employment Agencies Convention, 1933 (No. 34), in which it noted that Convention No. 34, providing that employment agencies conducted with a view to profit should have been abolished, was not complied with. The Committee once again points out that Article 4, paragraph 1, of Convention No. 9 requires the Government to ensure that an efficient and adequate system of employment offices for finding employment for seamen without charge is organised and maintained. In this connection, the Committee requests the Government to supply information in its next report to enable the Committee to assess the manner in which an efficient and adequate system of employment offices for finding employment for seamen without charge is ensured by the central authority (paragraph 1(a)). Please also indicate, where appropriate, the measures that have been taken to co-ordinate the various placement agencies on the national level (paragraph 3).

3. The Committee requested the Government to supply the statistical data on the functioning of non-fee-paying placement agencies required in the report form approved by the Governing Body. The Committee notes that no information is available at this level. It notes with interest that the Directorate of the National Employment Service of the Secretariat of Labour and Social Insurance will issue an instruction to its offices that are located on the coast of Mexico in order to register vacancies and applications for employment on vessels. The Committee is bound to emphasise that data on the organisation of the system of offices for the employment of seamen without charge (see also Article 10, paragraph 1), contribute to ensuring that full effect is given to the Convention. The Committee therefore trusts that the Government will be in a position in its next report to supply the data on the placement of seamen in such a way as to ensure the complete effectiveness of "an efficient and adequate

system of employment offices for finding employment for seamen without charge".

4. Article 5. The Government states in its report that it has no information on the constitution of any specific joint committee which should be consulted on the functioning of offices for the employment of seamen. The Committee expresses the hope that, in the light of its comments, the Government will be able to indicate in its next report the measures that have been adopted to establish a consultation procedure, as required by this provision of the Convention, concerning the functioning of offices for finding employment for seamen without charge.

Uruguay (ratification: 1933)

1. The Committee notes the information supplied by the Government in its report concerning the Committee's previous comments. It notes the draft regulations respecting the Registration Service for Seamen in the Merchant Marine, a copy of which is attached to the report. The Government indicates that the above draft text was criticised by trade union associations in the Labour Commission of the Chamber of Deputies, which called upon the Minister of Defence and the Director of Registration and the Merchant Navy of the National Naval Prefecture to appear before it; these persons explained the objective and reasons for the proposed amendments. The trade union associations have not submitted an alternative draft nor have they discussed amendments to the draft text prepared by the maritime authority. In its direct request in 1989, the Committee requested the Government to make any observations that it considered appropriate on the comments made in September and October 1989 by the Naval Engineers Central and the Inter-Union Assembly of Workers - National Convention of Workers (PIT-CNT). These seamen's organisations maintained that employment offices for seafarers have to be administrated by the representative associations of shipowners and seamen under the control of a central authority. In the opinion of these organisations, the central authority had to be an authority that was competent in the field of labour.

2. In its report, the Government indicates that the National Naval Prefecture reports that Article 4, paragraph 1(b), of the Convention is applied and that it has been in its own interests to establish an administrative committee with tripartite participation. With regard to Article 5, the Government indicates that the social partners have not appointed delegates to the advisory committee set up by Decree No. 600/77, which instituted a bipartite advisory committee for the staff register of the merchant marine of the National Naval Prefecture.

3. The Committee refers to Article 4, paragraph 1(b), of the Convention which permits the State itself to organise and maintain an efficient and adequate system of employment offices for finding employment for seamen without charge. Article 5 requires that "committees consisting of an equal number of representatives of shipowners and seamen shall be constituted to advise on matters concerning the carrying on of these offices. The Government in each

country may make provision for further defining the powers of these committees, particularly with reference to the committees' selection of their chairmen from outside their own membership, to the degree of state supervision, and to the assistance which such committees shall have from persons interested in the welfare of seamen." The Committee therefore hopes that in its next report the Government will be in a position to supply the information required in the report form for the Convention on the organisation of the system of offices for finding employment without charge and on the provisions that have been adopted respecting the consultation procedure of committees consisting of an equal number of representatives of shipowners and seamen, as required by the above provisions of the Convention.

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

Dominican Republic (ratification: 1933)

The Committee notes that, by virtue of section 232 of the Labour Code, young persons employed in agricultural work are excluded from the scope of section 223 of the Code, which prohibits the employment of young persons under the age of 14 years.

The Committee also notes that in its last report, which was received in 1989, the Government stated that the minimum age established by law for employment in agriculture is 10 years, and that this age was determined for reasons of a purely economic nature.

The Committee requests the Government to supply information on the measures that have been taken or are envisaged to ensure that, in accordance with the Convention, children under the age of 14 years may not be employed or work in any public or private agricultural undertaking, save outside the hours fixed for school attendance.

The Committee requests the Government to supply the text of the provisions that establish the minimum age and procedures governing the employment of children in agriculture.

The Committee notes the information contained in the report of the direct contacts mission which visited the country from 3 to 21 January 1991 at the request of the Government of the Dominican Republic. According to this information, the lack of labour to cut sugar-cane has resulted in plantations resorting to child labour for this activity.

The Committee notes the information in this connection that was communicated by the General Confederation of Workers (CGT).

The Committee notes that section 2 of Decree No. 417/90, of 15 October 1990, provides that special labour inspection delegations in sugar-cane plantations shall enforce the regulations respecting work carried out by young persons over 14 years of age.

The Committee requests the Government to supply information on the measures that have been taken to give effect to the Convention in relation to admission to employment and the work that is assigned. Furthermore, the Committee requests the Government to supply copies of reports of the inspection services in relation to controls over the

employment of young persons, containing data on violations that have been reported and the sanctions that were imposed.

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

Malaysia (ratification: 1960)

The Committee notes that the Government's report in reply to comments of the Malaysian Trades Union Congress (MTUC) dated 20 October 1989 has not been received.

The Committee recalls that the MTUC alleged that, contrary to Article 1 of the Convention, those engaged in agriculture (except those on plantations who can unionise) have restrictions placed on their rights of association; unlike industrial workers, they are not allowed to form or join trade unions and can only form and join co-operatives especially those organised by the Government.

The Committee, in the absence of a reply from the Government, recalls that those engaged in agriculture should have equality of rights with industrial workers for the purpose of association and combination. It requests the Government to clarify the scope in practice of the Trades Union Ordinance (which accords the right of association to workers employed under a contract) and of the other legislation applicable to non-wage earners "engaged in agriculture" (Societies Ordinance and Co-operative Societies Ordinance). In particular, the Committee asks the Government to supply information on the number of associations covering all agricultural workers and agriculturalists, the last details of which were supplied in the Government's 1973-74 report.

Rwanda (ratification: 1962)

With reference to its previous comments concerning section 186 of the Labour Code, which provides that agricultural workers shall be covered by special provisions contained in a special Act and therefore excluded from the scope of the Labour Code, the Committee notes the Government's statement that, despite section 186 of the Labour Code, those engaged in agriculture have always in practice enjoyed the same rights of association and combination as industrial workers. It notes with interest that a first-level trade union for workers in agriculture, animal rearing and forestry (the constituent by-laws of which are attached to the report) was established within the Rwandan Workers' Trade Union Confederation on 27 December 1989.

With regard to the draft Legislative Decree to revise the Labour Code, which repeals section 186, the Government states that the competent authorities have now opted for a progressive revision of the law which gives priority to urgent cases, instead of the total revision that was previously envisaged in the above draft text. The Committee points out that this draft text has been under discussion since 1978 and that there would not appear to be major difficulties in bringing the Labour Code into conformity with the Convention - and

with current practice in Rwanda - and it trusts that the appropriate amendments will be made rapidly to the Labour Code in order to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers. The Committee requests the Government to supply a copy once it has been adopted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Brazil, Greece, Guatemala, Lesotho, Zambia.

Convention No. 12: Workmen's Compensation (Agriculture), 1921

Malaysia (ratification: 1961)

Peninsular Malaysia

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

Further to its previous comments, the Committee notes the information supplied by the Government in its report for the period ending 30 June 1989, as well as the observations presented by the Malaysian Trades Union Congress (MTUC) in November 1989, which were forwarded to the Government for its comments.

In its report the Government indicates that all agricultural workers, organised or unorganised, in establishments employing more than five workers and who are earning \$1,000 or less a month, are protected under the Social Security Act, 1969; the Workmen's Compensation Act covers all employees working in establishments employing less than five workers. In the opinion of the MTUC, agricultural workers, except those working in the plantations, are not covered by any special system of workmen's compensation or accident insurance which provides for the compensation of workers for personal injury by accident arising out of or in the course of their employment.

The Committee expresses the hope that the Government will send with its next report any comment it may have in relation to the MTUC observations.

Nicaragua (ratification: 1934)

1. The Committee takes note of the information supplied by the Government in its reports, to the effect that the Committee's comments will be taken into account in the drafting of the new Labour Code, for which the advice of the ILO was sought. The Committee hopes that the above Code will be adopted shortly and will give effect to the provisions of this Convention, in particular by repealing section 103 of the Labour Code now in force (which allows judges to reduce the

compensation due to workers sustaining occupational injury in small agricultural enterprises).

2. The Committee would be grateful if the Government would continue to provide information on the extension to all agricultural workers the benefits provided for in social security laws and regulations which are designed to compensate workers for personal injury by accident arising out of or in the course of their employment, in accordance with Article 1 of the Convention.

* * *

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

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

Algeria (ratification: 1962)

In comments it has been making since 1965, the Committee has noted that no specific provisions exist to give effect to the Convention. In its latest report, the Government has indicated that the texts to be made under the Act on Occupational Health and Safety and Occupational Medicine of 1988, which are to implement the provisions of the Convention, are still in the process of being adopted. The Government explains that these texts have not yet been adopted because of the priority given to the implementation and adoption of legislative texts resulting from the economic and political reforms introduced by the Government.

The Committee urges the Government to adopt the texts necessary for the application of all the provisions of the Convention in the near future. The Government might wish to consider requesting assistance from the Office in elaborating or reviewing the relevant texts to ensure they give effect to Article 1 of the Convention (prohibition of the use of white lead and sulphate of lead in the internal painting of buildings), Article 2 (regulation of the use of white lead in artistic painting), 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), Article 7 (collection of statistics concerning morbidity and mortality rates with regard to lead poisoning).

[The Government is requested to supply full particulars to the Conference at its 78th Session.]

Belgium (ratification: 1926)

The Committee notes with satisfaction the notice from the Ministry of Labour and Employment which instructs the Occupational Health and Medicine Administration to refuse authorisation to buy white lead and products containing its pigments by virtue of section

148 decies (1) of the General Regulations for Occupational Protection which prescribes the use of products which are the least harmful to the health of workers. It also notes with interest from the notice issued by the Ministry of Labour and Employment that, after consultation with the Superior Council for Safety, Health and the Improvement of the Workplace, the General Regulations for Occupational Protection shall be amended so as to prohibit the use of paint containing white lead or its pigments.

The Committee requests the Government to transmit copies of the General Regulations for Occupational Protection when amended as indicated in the notice issued by the Ministry of Labour and Employment.

* * *

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

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

Requests regarding certain points are being addressed directly to the following States: Bahamas, China, Comoros, France, Grenada, Haiti, Iraq, Malaysia, Malta, Mauritius, New Zealand.

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

Requests regarding certain points are being addressed directly to the following States: Guatemala, Lebanon.

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

Requests regarding certain points are being addressed directly to the following States: Guatemala, Seychelles.

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

Kenya (ratification: 1964)

1. With reference to its previous comments, the Committee notes the following information that was provided by the Government in its report and the information communicated to the Conference Committee in 1990. As regards the amendments made by Act no. 22 of 1987 to the Workmen's Compensation Act (Revised edition 1988), the Committee refers to its observation of 1989 and recalls that these amendments, which had the effect of raising the amount of the benefits payable to

workmen and their dependants, have still not given full effect to Articles 5, 9, 10 and 11 of the Convention.

The Committee also notes with interest the draft Work Injury Benefits (Insurance) Scheme Act which was transmitted by the Government with its report. This draft text provides for important improvements in relation to the legislation that is in force. It provides for the replacement of the workmen's compensation scheme financed by the employer with a social insurance scheme against industrial accidents and occupational diseases, which should make it possible to give effect to Article 11 of the Convention. Furthermore, under the terms of the draft text, the compensation due in the event of occupational injury to victims who are permanently disabled, or to their dependants (in the event of the victim's death), will be paid principally in the form of periodical payments, which should make it possible to give better effect to Article 5 of the Convention.

The Committee however notes that this draft text, on which the International Labour Office made a number of comments and communicated them to the Government, at its request, in a letter dated 12 October 1990, includes certain divergencies with the Convention on the following points.

Article 2 of the Convention. Section 13(2) of the draft text excludes the compensation of workers employed ordinarily outside Kenya but temporarily employed in Kenya by an employer who carries on business chiefly outside Kenya, unless an agreement has been concluded to the contrary. This exclusion is not covered by the cases mentioned in Article 2, paragraph 2, of the Convention.

Article 5. Sections 53(2)(c) and 61 of the draft text provide for the payment of a lump sum where a degree of incapacity is less than 40 per cent or where the amount of the compensation is less than a certain sum. Section 63 of the draft text provides for monitoring of the payment of compensation in the form of a lump sum, although it would not appear to provide for sufficient guarantees to ensure that the sum is properly utilised, as set out in Article 5 of the Convention.

Article 7. The Committee notes that by virtue of section 61(1) of the draft text (at the bottom of page 42) the payment of the additional allowance in the event of incapacity that necessitates the constant assistance of another person may be limited to a specific period, whereas such a restriction is not authorised by the Convention, since the additional compensation shall be provided for as long as the state of health of the victim necessitates it.

Article 8. The draft text should be completed in such a way as to explicitly lay down that any workman who is victim of an employment accident, whose degree of incapacity is subsequently altered following a worsening of his condition, may have the amount of his pension reviewed.

Articles 9 and 10. Section 73(2)(a) of the draft text provides for the setting of maximum limits for the reimbursement of expenses, particularly those incurred for medical, surgical or pharmaceutical care and for the supply and replacement of artificial limbs and surgical appliances, whereas the determination of such limits is not authorised by the Convention, as the Committee has been emphasising for many years.

The Committee therefore hopes that the draft Work Injury Benefits (Insurance) Scheme Act will be amended so as to take into account the above points and the comments made by the ILO. It also hopes that the draft text, once it has been amended, will be adopted in the near future in order to give full effect to the Convention. The Committee requests the Government to supply information on any progress achieved in this respect and to transmit the text of the legislation when it has been adopted.

2. The Committee wishes to draw the Government's attention to the fact that there appears to be an error in the wording of section 32 of the Workmen's Compensation Act (Revised Edition) 1988, since subsection 1(a) respecting medical care has not been reproduced, even though reference is made to it in subsection (2).

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

Rwanda (ratification: 1962)

Article 2 of the Convention. The Committee notes with regret that, according to the Government's reply to its previous comments, 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, although the matter has been submitted to the technical bodies concerned.

The Committee points out in this connection that it has been commenting for over 15 years on the need to extend the statutory provisions respecting the compensation of industrial accidents to apprentices and that even in its report for the period 1973-75 the Government indicated that a draft Ministerial Order was being prepared. In these circumstances, the Committee is bound once again to hope that the above draft Ministerial Order will be adopted in the near future in order to give full effect to Article 2 of the Convention, which provides that the laws and regulations as to workmen's compensation shall apply to workmen, employees and apprentices. It requests the Government to indicate any progress achieved in this respect in its next report and to transmit the text of the Ministerial Order when it has been adopted.

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:

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.

United Republic of Tanzania (ratification: 1962)

1. Article 5 of the Convention. The Committee notes the Government's statement in its report that the preparation of the "Consolidated Social Security Legislation" is still under way. It therefore hopes that the above-mentioned legislation will soon be approved and that the Workmen's Compensation Ordinance, Chapter 263, will 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. Please supply information on any progress made in this respect.

2. The Committee would be grateful if the Government would supply the text of the 1986 Workmen's Compensation Act applicable to Zanzibar.

Uganda (ratification: 1963)

Article 5 of the Convention. Referring to its previous comments, the Committee notes the Government's statement in its report that the Government and the tripartite Labour Legislation Review Committee are working with an ILO expert to finalise the draft workers' compensation legislation. It hopes that this legislation will be adopted in the very near future so as to give full effect to the provisions of the Convention, and in particular to its Article 5, under which compensation payable in case of death or permanent incapacity shall be paid in the form of periodical payment throughout the contingency, provided that it may be paid in a lump sum, if the competent authority is satisfied that it will be properly utilised.

The Committee would be grateful if the Government would indicate any progress made in this respect.

United Kingdom (ratification: 1949)

Article 9 of the Convention (Free medical, surgical and pharmaceutical aid). In reply to the Committee's previous comments concerning the participation by victims of industrial accidents in the cost of pharmaceutical products prescribed for out-patients, the Government states once again that whilst it has no plans to alter the existing arrangements for exemption from charges which are set out in the regulations, it has been particularly concerned that no one should be deterred, on financial grounds, from seeking the treatment they need. It adds that under the existing arrangements over 75 per cent of prescribed items are dispensed free of charge and nearly 5 per cent are dispensed under season ticket arrangements. While noting this statement, the Committee can only regret the reasons that, in the Government's view, make it necessary to maintain participation in the cost of these benefits. It is bound to point out that any provision laying down participation by injured workmen in the course of their employment in the cost of pharmaceutical benefits, is contrary to the Convention. It reiterates therefore its hope that the Government will make every effort to ensure the full application of the Convention by abolishing any participation in, among other things, the cost of pharmaceutical products.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Antigua and Barbuda, Comoros, Lebanon, Spain.

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

With reference to its previous comments, the Committee notes with satisfaction that items 1 and 30 of the schedule of occupational diseases annexed to Ordinance No. 10/PCM, of 21 March 1959, which concern respectively diseases caused by poisoning by lead and mercury have been amended in order to suppress, in accordance with Article 2 of the Convention, the restrictive nature of the morbid manifestations that may have been caused by "lead, its alloys or compounds" and "mercury, its amalgams and its compounds".

Guinea-Bissau (ratification: 1977)

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

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

* * *

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

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

Requests regarding certain points are being addressed directly to the following States: Islamic Republic of Iran, Lebanon.

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

Bolivia (ratification: 1973)

See under Convention No. 1.

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

Colombia (ratification: 1933)

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

With reference to its previous 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.

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

France (ratification: 1928)

Article 9, paragraph 1, of the Convention. The Committee refers to its previous comments in which it indicated that, under sections 10, 95, 98 and 101 of the Maritime Labour Code, although the seaman is entitled to terminate his agreement, this termination can only take effect in metropolitan ports (or, under section 96 of the Code, in ports of an overseas department or territory for a seaman embarked in a vessel registered in one of these ports). It notes the Government's statement in its report that these provisions ensure that seamen avoid a situation in which they are abandoned or left in a foreign port. The Committee considers that, although it may be considered to be an advantage for the seaman that his agreement can only be terminated in the port in which he was embarked, there is however a serious disadvantage in that in such cases the seaman does not enjoy the right, which is accorded by the Convention, to terminate an agreement for an indefinite period in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given, which shall not be less than 24 hours.

The Committee notes that the Government could contemplate amending section 101 of the Maritime Labour Code by providing for the intervention of the consular authority which could authorise the discharge of the seaman on serious grounds, and particularly as a result of non-compliance by the shipowner with his obligations. Although this appears to be closer to the provisions of Article 12 of the Convention, this new wording of section 101 could be a transitional step before the adoption of other amendments to give effect to Article 9, paragraph 1, with no restrictions other than the period of notice. The Committee hopes that the Government will supply information in this connection.

Germany (ratification: 1930)

The Committee notes that the Public Service, Transport and Communication Union has submitted comments on the application of this Convention in a communication dated 27 September 1990. According to this communication, since the International Maritime Shipping Register came into force for the Federal Republic of Germany in 1989, German collective agreements and labour legislation no longer apply to seamen domiciled abroad but employed on ships sailing under the German flag. These foreign seamen can thus be employed under the conditions applicable in their countries of origin.

The Government transmitted its observations on the above comments in a communication received by the ILO on 14 December 1990. It points out that the legal systems in many countries recognise the principle of free choice for the parties of the legislation applicable to the employment relationship where the latter involves more than one nationality. The Government states that the Federal Republic of Germany was among such countries well before the entry into force of the International Maritime Shipping Register. The Committee also notes that, according to the Government's explanation, the new regulations will not affect the obligatory standards drawn up by the

International Labour Organisation, that the conditions of employment for foreign seafarers on vessels listed in the International Maritime Shipping Register may be covered by collective agreements concluded with foreign trade unions, but that this does not exclude the possibility of concluding individual contracts, and that these collective agreements are fully subject to German jurisdiction, so that they have the same legal validity as agreements concluded by German trade unions, in accordance with the Collective Agreement Act, and that foreign seafarers thus have the right to appeal to German labour courts. Lastly, the Committee notes that the Government intends to establish minimum standards for those trade unions that are authorised to conclude collective agreements for foreign seamen on board German ships listed in the International Maritime Shipping Register, and that these standards must conform to the principles established by the ILO.

The Committee observes that foreign seafarers are not covered by German labour legislation or German collective agreements, but that they are none the less hired within the framework of collective agreements concluded with the trade unions in their own countries and by individual contracts. It would be grateful if the Government would provide copies of the collective agreements and individual contracts concluded in the conditions mentioned above and indicate whether this staff appears in the ship's articles (list of crew members) and whether Convention No. 22 is applicable to these seafarers in German law. In addition, the Committee requests the Government to specify the duties on board ship of the foreign seamen engaged according to the procedure mentioned above.

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

Mauritania (ratification: 1963)

Further to its previous observations concerning the draft Ordinance prepared in 1979, the Committee notes, from the Government's report, that the above draft has not yet been adopted. In view of the fact that the draft should 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 indicate in the very near future that the draft in question has been adopted and that it will transmit a copy of it.

[The Government is asked to report in detail for the period ending 30 June 1992.]

Mexico (ratification: 1954)

Article 9, paragraph 1, of the Convention. With reference to its previous comments respecting section 209(III) of the Federal Labour Act, the Committee notes the interpretation of this section by the Federal Conciliation and Arbitration Board to the effect that it prohibits the termination of an agreement for an indefinite period (a) when the vessel is abroad, (b) when the vessel is in an uninhabited place and (c) when it is in port, on condition in the latter case that the ship is exposed to risk due to bad weather or other circumstances.

The Committee notes that this new interpretation differs from the one given by the Government to section 209 in its reports for the periods 1980-82 and 1982-86. At that time the Government considered that condition (a) was only fulfilled when it coincided with condition (b) or (c). In the interpretation given by the Federal Board, condition (a) is valid per se and no longer depends on the other two, since the Board considers that Article 9, paragraph 3, of the Convention explicitly empowers national legislation to determine the exceptional circumstances in which the period of notice shall not terminate the agreement. The Committee wishes to point out that paragraph 3 does not give States which ratify the Convention an unlimited right to disregard the general rule established in paragraph 1, nor to replace it by another general rule under which an agreement for an indefinite period may be terminated only in a port of the country of registration of the vessel. However, the Committee wishes to point out that the Government, under the provisions of Article 1, paragraph 2(c) and (g), of the Convention, may determine which categories of vessels remain outside the scope of the Convention, by applying the criteria set out in this provision.

The Committee trusts that the Government will take into account the above and will take the necessary measures to bring the legislation into harmony with this Article of the Convention.

Norway (ratification: 1940)

In its previous comments, the Committee noted the observations presented by the Norwegian Seamen's Union as regards a new provision introduced by the Act of 31 May 1985 (No. 37) concerning amendments to the Seamen's Act. By virtue of section 1, second paragraph, of the Seamen's Act as amended, persons who are neither resident in Norway, nor Norwegian nationals, and who are hired by a foreign employer to attend passengers on Norwegian cruise ships, are only subject to certain provisions of the Act. These provisions do not include those of the Act that deal with seamen's articles of agreement.

The above Union referred, in this connection, to the statement made by the Directorate for Seamen to the Ministry of Trade that "it may be asserted that section 1, second paragraph, of the Seamen's Act is inconsistent with most of the requirements in Articles 3, 4, 9, 11, 12 and 15 of the Convention", and that "with the entry into force of the exception provision contained in ... the Seamen's Act, there will no longer be any Norwegian legislation to secure this group of employees the rights to which they are entitled under Convention No.

22". The Norwegian Seamen's Union states that it agrees with the statement of the Directorate for Seamen.

In its comments, the Ministry of Trade took the view that section 1 of the Seamen's Act is not in direct contravention of the Convention.

The Committee noted the above information and comments and observed that by virtue of Article 2(b) of the Convention, the term "seaman" includes every person employed or engaged in any capacity on board and entered in the ship's articles (crew list). The provisions of the Convention apply to a "seaman" so defined. The Committee also indicated that, in accordance with this definition, non-resident foreign nationals who are employed on board ship are to be regarded as seamen for the purpose of the Convention, provided that they are entered in the ship's articles (crew list). If the foreign staff in question are entered in the ship's articles (crew list), the Convention is applicable to them.

The Government's report does not contain all the information requested by the Committee in this respect, but confirms that the provisions of the law concerning seamen's articles of agreement do not apply to the persons in question. Therefore, these work on board vessels registered in the country of a member State, Norway, which has ratified Convention No. 22, without benefiting from the provisions of the Convention respecting articles of agreement. Under the terms of the Convention, this situation would constitute a violation of Article 3 if the foreign staff in question are entered in the ship's articles (crew list) which are set out in sections 1 and 2 of Act No. 90 of 18 June 1971 on mustering of employees on board ships, irrespective of their capacity on board the ship.

The Committee hopes that the Government will supply further information on the above point.

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

Pakistan (ratification: 1932)

The Committee refers to its previous comments concerning the application of Article 1 of the Convention (extension of the scope of the Convention to seamen engaged on Pakistani ships in ports outside Pakistan) and to the Merchant Shipping Bill which, according to the Government, was to be enacted in 1988 to give effect to the Convention in this respect. In the absence of any new information, the Committee hopes that the Government will soon be able to state that the above Bill has been enacted and transmit the relevant extracts.

As regards the application of Article 5, paragraph 2, the Committee points out that the Continuous Discharge Certificate contains columns on "ability" and "conduct" which are considered to be prejudicial to seafarers both by the Marine Engineers Association of Pakistan and by the Society of Maritime Chief Engineers of Pakistan, which have made observations on this matter. The Committee hopes that the Government will be able to express its views about the above comments. It also wishes to point out in this respect that, under the terms of Article 14, paragraph 2, of the Convention, the seaman shall at all times have the right to obtain from the master a separate

certificate as to the quality of his work or, failing that, a certificate indicating whether he has fully discharged his obligations under the agreement. Section 43A of the Merchant Shipping Act appears to respond partially to this requirement, although its application should be extended to vessels which unload outside Pakistan; this change could be made within the framework of the amendments to the Merchant Shipping Act. The Committee hopes that the Government's next report will contain information on this subject.

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

Panama (ratification: 1970)

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

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

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

Peru (ratification: 1962)

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

Further to its previous comments, the Committee notes the information provided by the Government in its report concerning Article 7 of the Convention.

Article 5, paragraph 2, of the Convention. The Committee notes that the report does not refer to this provision and trusts that the Government will indicate in its next report the measures adopted to ensure that the document given to the seafarer containing a record of his employment on board the vessel, contains no statement as to the quality of his work or as to his wages.

Article 6, paragraph 3(8) and (11). The Government has indicated in its report that national legislation provides for a list of provisions and for annual leave with pay for seafarers.

The Committee hopes therefore that the necessary measures will be taken so that these matters appear in the articles of agreement as provided for in these provisions of the Convention, and that the Government will provide a copy in its next report of a contract modified in this way.

Article 9, paragraphs 1 and 2. The Committee notes that under sections B-040.111, B-040.113 and B.040-115 of the Regulations on Harbour-Masters and Maritime, River and Lake Activity, it does not appear to be provided that a seafarer who has concluded an agreement for an indefinite period may disembark in any port where the vessel loads or unloads, after an agreed notice period, as required by the Convention. Section B-040.113 provides in particular that an agreement for a definite or an indefinite period implies an obligation on the seafarer to make round trips of crossings or of coastal voyages to any national or foreign port as decided by the shipowner. The Committee hopes that the Government will indicate in its next report the measures which are contemplated to establish a clear distinction in this regard between agreements concluded for a definite and for an indefinite period.

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

Somalia (ratification: 1960)

Further to its previous comments, the Committee notes with interest that, according to the information supplied by the Government in its report, the new Maritime Code has been approved by the National People's Assembly and that it is presently under print and a copy of it will be transmitted to the ILO as soon as possible.

Venezuela (ratification: 1944)

With reference to its previous observation, the Committee notes that, according to the Government's report, the Basic Labour Bill is still in the process of being examined by Parliament and that the inclusion in the regulations issued for its application of the provisions of the Convention on which the Committee has been commenting will be examined. The provisions in question are Article 8 (measures to enable a seaman to obtain clear information on board as to the conditions of his employment), Article 9, paragraph 1 (possibility for either party, in the case of agreements for an indefinite period to terminate the agreement in any port where the vessel loads or unloads, provided that the notice specified has been given), Article 13, paragraph 1 (possibility for a seaman to claim his discharge to obtain a post of a higher grade) and Article 14, paragraph 2 (right of a seaman to obtain from the master a certificate

as to the quality of his work). The Committee hopes that it will be possible for the above-mentioned legislation to be adopted shortly.

[The Government is asked to report in detail for the period ending 30 June 1992.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Belize, China, Djibouti, Egypt, Ghana, Iraq, Liberia, Portugal, Tunisia, Uruguay.

Convention No. 23: Repatriation of Seamen, 1926

Ireland (ratification: 1930)

Article 3, paragraphs 1 and 4, of the Convention. The Committee refers to its previous comments concerning section 32 of the Merchant Shipping Act of 1906, which does not cover the right to repatriation of (a) a seaman who leaves the ship in a Commonwealth country nor (b) a foreign seaman who joins the ship in a foreign port and leaves it in another foreign port. The Committee also recalls that the first of these exceptions conflicts with Article 3, paragraph 1, and the second, when applied to a foreign seaman who joins a ship in his own country, conflicts with paragraph 4 of the same Article.

In its report, the Government once again states that the amendment of section 32 of the Act of 1906 will be one of the matters to be examined within the framework of the revision of the above Act, but it does not indicate whether this revision will begin in the near future. In view of the fact that the Committee has been drawing the Government's attention to this matter since 1964, it trusts that the necessary measures will be taken in the very near future.

[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: China, Djibouti, Egypt, Iraq, Liberia, Philippines, Portugal, Tunisia.

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

Haiti (ratification: 1955)

The Committee notes the text of the Decree to institute the National Protection and Social Security Office, issued in Le Moniteur on 11 January 1990 and transmitted by the Government. It also notes the information supplied by the Government in its report to the effect that this Decree should make it possible to restructure the insurance

system and that a prerequisite for this restructuring is the installation of the new Government.

The Committee therefore once again hopes 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.

[The Government is asked to report in detail for the period ending 30 June 1992.]

Peru (ratification: 1945)

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

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

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

The Committee notes this information. It points out that, although Article 4, paragraph 2, of the Convention authorises the participation by the insured in paying the cost of medical care, it does not authorise any qualifying conditions. It therefore hopes that the Government will take the necessary measures in order to abolish, in accordance with the Convention, any qualifying condition with regard to medical care. It once again requests the Government to supply copies of any regulations,

rulings or any other text adopted by the Peruvian Institute of Social Security under Act No. 24620 referred to above.

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

* * *

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

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

Haiti (ratification: 1955)

See under Convention No. 24.

[The Government is asked to report in detail for the period ending 30 June 1992.]

Peru (ratification: 1945)

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

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

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

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

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

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

Requests regarding certain points are being addressed directly to the following States: Belize, Ghana, Grenada, Guatemala, Ireland, Mauritius, Tunisia.

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

General observation

Application of the Convention to containers

In a general observation made in 1987, the Committee noted the difficulties encountered by a member State in applying the Marking of

Weight (Packages Transported by Vessels) Convention, 1929 (No. 27) to containers and the proposal made to the Governing Body Working Party on International Labour Standards with a view to a revision of the Convention so as to take into account changes in methods of cargo transport since 1929, in particular in the field of lifting appliances and gear in harbours and on board ship.

In 1988 the Committee had addressed to countries having ratified the Convention a request for information on the manner in which the Convention is being applied to containers, both in law and in practice, and on any difficulties encountered in this regard. Thirty-nine governments have supplied detailed answers; more than half advocate revising the Convention or indicate considerable difficulties in applying it to containers.

It may be concluded from the Committee's examination of the general position shown in the above-mentioned replies that in spite of the existence of other international instruments bearing on some safety aspects in the use of containers (e.g. the international convention for safe containers, 1972, adopted by the IMO) it is desirable that Convention No. 27 be revised with a view to ensuring the safe handling of containers.

Bangladesh (ratification: 1972)

The Committee notes the Government's report and the comments made by the Bangladesh Employers' Association.

1. For a number of years, the Committee has been drawing the attention of the Government to the absence of national legislative provisions to ensure the application of the Convention. Section 59 of the Railway Act of 1890, respecting the marking of heavy packages, which is applicable only in the port of Chittagong and to seagoing vessels, does not specify the weight of 1,000 kg (one metric ton) from which the weight shall be marked in accordance with the Convention.

The Committee noted with interest the Government's statement that the necessary measures had been taken to extend the rules respecting the marking of heavy packages to all ports. The Committee requested the Government to supply a copy of the provisions that had been adopted to this effect.

The Committee notes, from the Government's report, that the requested information will be transmitted as soon as it is received from the minister concerned.

2. The Committee refers once again to the general observation that it made in 1987 with a view to obtaining detailed information on the manner in which the Convention is applied to containers in national legislation and in practice, and on all difficulties encountered in this respect. It would be grateful if the Government would supply this information in its next report.

* * *

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

Convention No. 29: Forced Labour, 1930

Cuba (ratification: 1953)

The Committee notes the comments made on 31 January 1991 by the International Confederation of Free Trade Unions (ICFTU) concerning the application of Convention No. 29. A copy of these comments was transmitted to the Government so that it could make the observations that it considered appropriate.

In its comments, the ICFTU alleges that the system known in the country as voluntary labour is, in practice, forced labour under the terms of the Convention, since refusal to do such labour results in the loss of certain rights, benefits and privileges. It also indicates that the system of voluntary labour is widespread and growing. In its comments, the ICFTU describes this system as follows: the "quotas" for voluntary labour are formally adopted at the workers' assembly of each enterprise, although in practice they are predetermined by the trade unions, which are responsible for organising voluntary labour. Once the quota has been established, managers of enterprises prepare lists of the workers who are to perform it; 120 hours of voluntary labour give entitlement to a certificate while, in contrast, in the event of repeated unjustified absences the worker is described as "counter-revolutionary".

The ICFTU also refers to resolution No. 590 of 1980 of the Ministry of Labour and Social Security, which establishes merits for two categories of voluntary work, namely participation in permanent activities (sugar harvest, housing construction micro-brigades) and in voluntary labour organised by the trade union (section 5(e) and (f)). Annual Assemblies of Merits and Demerits discuss the report of the trade union chapter on the merits achieved by the workers, which include participation in voluntary work, and propose their inclusion in the labour record "expediente laboral" (section 3).

The ICFTU alleges that certain benefits, rights and privileges, such as promotion, transfer, access to new employment, the acquisition of certain consumer goods, housing or participation in university programmes, depend on the merits that have been accumulated and noted in the worker's labour record. It also adds that persons who refuse to perform voluntary labour are subject to harassment and psychological abuse and that data on participation in voluntary labour are included in the "guía del informante" (informer's guide), a document that is used by the state security police.

In its comments, the ICFTU also refers to the employment of conscripts and young persons in development work. It alleges that these persons are obliged to work on a regular and massive basis for economic objectives.

The Committee requests the Government to make its observations on the allegations submitted by the ICFTU.

France (ratification: 1937)

1. Article 2, paragraph 2(c), of the Convention. In previous comments, the Committee noted the general clauses and conditions of employment of detainees within and outside prison establishments contained in the hiring contracts and circulars of the Ministry of Justice of 14 January 1986, and it requested the Government to supply information on the effect given in practice to the provisions of section 720 of the Code of Criminal Procedure and of hiring contracts, particularly regarding the following points: the proportion of detainees who wished to work and who were made available to hiring enterprises; the remuneration actually paid in relation to that of free workers and the deductions made in relation to the level of productivity, and the special conditions and deductions referred to in hiring contracts; the unemployment insurance covering detainees working outside or inside prison.

The Committee notes the information supplied by the Government concerning detainees who exercise an occupational activity or who receive training. It notes in particular that the activities of detainees working for the Prisons Industrial Board (RIEP) is organised and carried out within the framework of the prison administration and that productive activities are carried out by the above administration for other administrative departments and for private enterprises. As regards the activity of detainees who work for hiring enterprises, the prison administration makes available to the enterprises the premises on which the work is organised and the detainees are employed. Their remuneration is in theory negotiated at the same level as that of free workers, although the application of this principle encounters difficulties stemming, in particular, from the low skill levels of prison detainees and the productivity levels, which are lower than in external enterprises. According to the information supplied by the Government, the average daily remuneration for six hours of work was, in September 1989, FF75 for hired workers and FF90 in the RIEP. This remuneration is subject to deductions to cover social contributions in the fields of sickness, old-age and widows' insurance (both the worker's and the employer's contributions) and accident insurance, as well as deductions pertaining to the detainee's imprisonment (maintenance, the earnings that are retained and paid to prisoners upon their release, compensation for victims). The Government indicates that the prison administration is aware of the overall insufficiency of the level of remuneration and is endeavouring to pursue a policy of attracting enterprises that offer better paid work.

The Committee notes that under section 720(3) of the Code of Criminal Procedure the employment relationships of detainees are not covered by employment contracts. The Committee also notes that the average hourly rate of remuneration was FF12.50 in September 1989, while the minimum wage (SMIC), which is the gross hourly wage rate under which no employee may be paid, was FF29.91. The deductions that were made amounted to around 80 per cent of the remuneration.

The Committee refers to paragraphs 97 to 101 of its 1979 General Survey on the Abolition of Forced Labour in which it indicated that the employment of prisoners by private employers is only compatible with the Convention under the conditions of a free employment

relationship, that is not only entered into with the consent of the person concerned but is also subject to certain guarantees as to the payment of normal wages and social security, etc.

The Committee notes that, according to the documentation supplied by the Government in its report, 400 private enterprises have employed 8,500 workers and attained a payroll of FF115 million, and it requests the Government to indicate the measures that have been taken or are envisaged to ensure that the remuneration paid by hiring enterprises is of a comparable level to that paid to free workers, not only in overall terms, but also as regards individual wages. It also requests the Government to state whether, for hired workers, the employers' share of social contributions is paid by the detainee.

As regards entitlement to unemployment benefits, the Committee notes the information supplied by the Government to the effect that, under the general unemployment benefit scheme set up by Ordinance No. 84-198 of 21 March 1984, freed detainees benefit from public assistance in the form of the integration allowance that is awarded for a period of one year, and have access to training programmes intended for the long-term unemployed by virtue of a circular dated 15 February 1988.

Germany (ratification: 1956)

The Committee notes the information supplied by the Government in its report for the period ending 30 June 1989, which was received by the ILO in March 1990. It also takes note of the observations made by the German Confederation of Trade Unions (DGB) concerning the application of the Convention, and the Government's reply to these observations which reached the ILO in December 1990.

1. Article 2, paragraph 2(c), of the Convention. In the comments it has been making for a number of years, the Committee has observed that, contrary to the Convention, prisoners are placed at the disposal of private undertakings and that the provisions of the Act on the execution of sentences, adopted in 1976 to bring practice into conformity with the Convention, have not been put into effect. Thus, the requirement of the prisoner's formal consent to employment in a workshop maintained by private enterprise, laid down in section 41(3) of the 1976 Act, which was to enter into force on 1 January 1982, was suspended by section 22 of the Second Act to improve the Budget Structure, of 22 December 1981; the 1976 Act also recognises the prisoner's right to wages, but a provision for increases above the initial amount, which is 5 per cent of the average wage of workers and employees was not given effect; finally, legislation which was to extend sickness and old age insurance to prison labour was not adopted.

In its latest report, the Government recalls its previous statements to the effect that the staff of private enterprises can be responsible only for the technical and work-related direction of prisoners and that the prison authorities determine the place and hours of work as well as the nature of the work assigned to the prisoners, thus retaining complete control over them and that the situation of such prisoners is exactly the same as that of prisoners employed in workshops belonging to the prison.

The Government indicates that prisoners are covered by accident and unemployment insurance and receive remuneration, but that they are exempt from paying prison costs in view of the level of their remuneration. A Bill to increase the remuneration of prisoners to 6 per cent of the average remuneration of workers and employees, a level which represents a 20 per cent increase over the present amount, is now before the Federal Parliament. However, the limited financial capacities of the Länder are hampering the full implementation of the 1976 Act; the Government adds that health and pension insurance contributions are paid in respect of prisoners in the open prison system. The Government also recalls that the requirement of the prisoner's consent is already in effect for employment outside the penal institution.

The Government reaffirms its intention of fully implementing the 1976 Act with regard to the inclusion of prisoners in the health and pension insurance schemes and of putting into effect a provision under which employment in workshops run by private enterprise shall be subject to the consent of the prisoner.

In its observations, the DGB refers to doctrine and case law concerning the legal status of prisoners: one prevailing opinion is that prisoners are not workers in view of the fact that they are subject to a special situation of coercion governed by public law; another is that they should be regarded as workers when they are employed in a private enterprise. The DGB registers its disagreement with the Government's position: for the DGB, the decisive factor is not the prisoners' status but "how" the work is performed: in this connection section 41(3) of the 1976 Act, suspended in 1981, establishes the requirement of the prisoner's consent for employment in a workshop maintained by a private enterprise. The DGB adds that it is necessary to harmonise the situation of prisoners with that of free workers by guaranteeing the provision of social insurance protection and by applying the level of wages fixed in collective agreements.

In reply to these observations which it considers irrelevant to an appraisal of the application of the Convention, the Government indicates that the legal situation of the prisoner does not vary according to whether he is employed in a workshop run by the prison authorities or in a workshop maintained by a private enterprise, as the prisoner is subject to the obligation to work solely vis-à-vis the prison authority; the prisoner's consent which is required for work outside does not change the legal nature of the relationship between the prisoner and the authorities. The Government also states that the prisoner's wage which is 5 per cent of the average wage currently stands at DM 7.78 a day and not DM 6 as indicated by the DGB.

The Committee takes due note of the DGB's observations and the Government's comments. The Committee again recalls that Article 2, paragraph 2(c), of the Convention specifically prohibits that persons from whom work is exacted as a consequence of a conviction in a court of law be placed at the disposal of private individuals, companies or associations. Only work performed in conditions of a free employment relationship can be held not to be incompatible with this prohibition; this necessarily requires the formal consent of the person concerned and, in the light of the circumstances of that

consent, guarantees and safeguards in respect of wages and social security that are such as to justify the labour relationship being regarded as a free one. As the Committee has already pointed out, with effective normalisation of wages and social security, prisoners are likely to volunteer for employment in private undertakings.

The Committee trusts that the necessary measures will be taken to ensure that the Convention will be observed with respect to prisoners and that the Government will provide information in the near future on the provisions adopted.

2. Article 2, paragraphs 1 and 2(b). The Committee previously noted that, under the Work Permit Decree, persons requesting asylum are normally prohibited from working for at least two years from the date of their request, but that under the Federal Social Assistance Act, as amended by the Second Act to improve the Budget Structure, of 22 December 1981, the same persons may be called upon to perform "socially useful work", which they have no choice but to carry out if they are to maintain their welfare entitlements. The Committee pointed out that by the Act of 6 January 1987 the prohibition for asylum seekers to work has, with certain exceptions, been extended to a period of at least five years following their asylum request. As the Committee recalled in paragraph 21 of its General Survey of 1979 on the Abolition of Forced Labour, a penalty for the purposes of Article 2, paragraph 1, of the Convention may take the form of loss of rights or privileges. In a situation where the authorities have, through the prohibition of employment, deprived asylum seekers of the possibility of taking up work of their choice and made them dependent on welfare entitlements, the threat to withhold these payments in the event of failure to perform specified work brings that work within the scope of the Convention.

The Committee notes that in its report, the Government restates its position to the effect that social welfare is of a subsidiary nature and that all recipients of social welfare must accept the work offered. The Government adds that asylum seekers are comparable with Germans who are unable to find employment: asylum seekers are prevented from working on legal grounds, unemployed Germans on factual grounds. Just as unemployed Germans are required to take into consideration the jobs offered to them, the same is required of asylum seekers; otherwise, asylum seekers would be better off than unemployed Germans.

The Committee takes note of these indications. It considers that the situation of asylum seekers cannot be compared to that of unemployed Germans as the law prohibits asylum seekers from taking up employment for a period of five years. Only if such a prohibition were lifted would asylum seekers be in a situation comparable to that of unemployed Germans in search of work.

The Committee also takes note of the DGB's observations to the effect that the provisions of the Federal Social Assistance Act make it possible to compel the asylum seeker to take up work paid below the minimum market level, and notes the Government's reply to the effect that the work offered is linked to the offer of assistance, but the withdrawal of assistance is not a sanction on the refusal to take up the employment in question but the more general refusal to perform acceptable work.

The Committee recalls that the subsidiary nature of social assistance which implies that one should seek regular employment rather than exist on welfare, is a principle which applies to persons who are free to accept regular work but not to persons who are legally incapacitated because the right to engage in gainful employment has been intentionally withheld from them by an Act of Parliament. If the same persons are then faced with the choice of losing their livelihood in the form of welfare entitlements or having to engage in specific menial services, such services, although legally defined as something other than work, come within the scope of Article 2(1) of the Convention and are not covered by any of the exceptions in Article 2(2). As the Committee pointed out previously, labour performed under such conditions is not part of the normal civic obligations of the citizens of a fully self-governing country.

The Committee again asks the Government to re-examine its position and to take the necessary measures to ensure the observance of the Convention with regard to asylum seekers.

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, under which the full or partial mobilisation of civilians may be proclaimed, even in peacetime, in any situation arising suddenly and resulting in a disturbance of the economic and social life of the country. All citizens may then be called upon to take part in work or to perform 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 application of this Decree in 1986 during a strike by air pilots and mechanics was found to be contrary to the provisions of this Convention, and to those of the Abolition of Forced Labour Convention (No. 105).

The Government indicated previously that the competent ministry had initiated the procedure to revise Legislative Decree No. 17 of 1974. The Committee notes the information supplied by the Government in its last report that the matter has been submitted to the new Government so that it can examine it and take the necessary legislative or other measures that are appropriate. The Committee once again draws attention to the provisions of Article 2, paragraph 2(d), of the Convention and the explanations set out in paragraphs 63-66 of its 1979 General Survey on the Abolition of Forced Labour in which it indicated that recourse to compulsory labour under emergency powers should be limited to circumstances which endanger the existence or well-being of the whole or part of the population, and that in order to avoid any uncertainty as to the compatibility of national provisions with the applicable international standards, it should be clear from the legislation itself that the power to exact labour can only be invoked within the above limits.

The Committee trusts that the Government will supply information on the measures that have been adopted to ensure the observance of the Convention.

Honduras (ratification: 1957)

Article 2, paragraph 2(a), of the Convention. In the comments it has making for some years, the Committee has referred to the situation concerning the non-military work that conscripts can be required to perform. Article 274 of the Constitution of the Republic (formerly article 320) provides that the armed forces shall co-operate with the executive branch in the fields of literacy campaigns, education, agriculture, conservation of natural resources, road construction, communications, health, land reform and in emergency activities. The Committee asked the Government to adopt the necessary measures to ensure that conscripts may be called upon to perform only work or services of a purely military character, except in cases of emergency, in conformity with Article 2, paragraph 2(a) of the Convention.

The Committee notes that a draft Executive Decree has been prepared to amend the regulations issued under the Military Service Act, which provides that conscripts performing their military service shall be required to undergo only such training and preparation as is necessary for the proper performance of exclusively military duties, in conformity with the provisions of Article 2 of Convention No. 29 of the International Labour Organisation.

The Committee observes that an executive decree, inferior in rank to the above-mentioned provision of the Constitution, would not appear to ensure observance of the Convention in this respect.

The Committee hopes that the Government will take the necessary measures to provide explicitly that non-military work can be exacted from persons performing compulsory military service only cases of force majeure.

India (ratification: 1954)

Referring to its previous comments on the situation in law and in practice concerning the abolition of bonded labour, the Committee notes the Government's report for the period ending June 1989, including extracts of the report by a subcommittee of the Parliamentary Consultative Committee attached to the Ministry of Labour, as well as the discussion which took place in the Conference Committee in June 1989. It has also taken note of the discussions in the Working Group on Contemporary Forms of Slavery of the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities at its 14th and 15th Sessions, 1989 and 1990.

Abolition of bonded labour

1. Scope of the legislation. The Committee has previously noted that under article 23(1) of the Constitution of India, traffic

in human beings and "begar" and other similar forms of forced labour are prohibited and punishable in accordance with the law. Under section 4(1) of the Bonded Labour System (Abolition) Act, No. 19 of 1976 the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged from any obligation to render any bonded labour; under section 2(f) "bonded labourer" means a labourer who incurs, or has incurred, a bonded debt, i.e. an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of the bonded labour system (section 2(d)); the definition of "bonded labour system" given in section 2(g) refers, inter alia, to customary or social obligations and birth in any particular caste or community as possible reasons for bondage. In its judgement of 16 December 1983, the Supreme Court of India rejected the argument by the State of Haryana that in the absence of a debt certain labourers may be providing forced labour, but are not bonded labourers within the meaning of the 1976 Act, and the State would thus not be compelled to rehabilitate them. The Supreme Court pointed out that under section 12 of the Act it shall be the duty of every District Magistrate to inquire whether any bonded labour system or other form of forced labour is exacted and, if so, to take the necessary action to eradicate such forced labour. The scope of the Act was further clarified by amendments adopted in 1985. The Committee requests the Government to continue to provide information in relation to the scope of legislation on the abolition of bonded labour.

2. Identification, freeing and rehabilitation of bonded labourers. Concerning the number of bonded labourers the Committee referred previously to estimates made in 1981 by the Gandhi Peace Foundation in co-operation with the National Labour Institute which held that there were some 2.6 million bonded labourers in the agricultural sector alone (in 11 out of 21 States) and to the 1979 report of the Subcommission on Bonded Labour set up by the Central Standing Committee on Rural Unorganised Labour, which referred to some two million bonded labourers in the rural sector. The Committee also noted that the Commissioner for Scheduled Castes/Scheduled Tribes considered that the practice of bonded labour existed also in other areas than in agriculture such as quarrying, weaving, domestic services, etc. The existence of bonded labour in quarrying and weaving was confirmed by the above-mentioned Supreme Court judgement of 16 December 1983 and the report of the Commissioner appointed by the Supreme Court on the working conditions of child labour in the carpet units of Mirzapur.

The Committee notes the Government's renewed statement in its report and to the Conference Committee in 1989 that it has not accepted any of the estimates of the number of bonded labourers inter alia because there had been wide variations in the interpretation of the scope of the Bonded Labour System (Abolition) Act, all the estimates having been made before the adoption of the amendments to clarify the Act. The Committee notes however in this connection that the Supreme Court's judgement of December 1983 and the 1985 amendments, far from restricting the scope of the Act, have, on the contrary, stated that forced labour also comes under the purview of the Act. Thus they would tend to revise the earlier estimates upwards rather than downwards.

The Government indicated to the Conference Committee in 1989 that 242,532 bonded labourers had been identified, among whom 218,272 had been rehabilitated as of March 1989, the Government's target being to rehabilitate all the identified bonded labourers by March 1990; if new bonded labourers were identified they would be cases of new bondage or old cases which did not come to light before, despite the Government's efforts. According to the latest figures submitted by the Government to the United Nations Working Group on Contemporary Forms of Slavery at its 15th Session in July 1990, the total number of identified and freed bonded labourers was 242,160 as of 31 March 1990 of whom 210,091 had been rehabilitated. In its report the Government reiterates its commitment to the eradication of the bonded labour system; it also states that, as previously indicated, State Governments are competent to implement the 1976 Act and are primarily responsible for identification and rehabilitation, that they have been unable to ascertain the real situation and that active involvement of trade unions and social organisations is crucially important.

The Committee recalls that it previously took note of a certain number of plans and schemes adopted for the identification, release and rehabilitation of bonded labourers, either directed specifically towards bonded labour or integrating bonded labour as one of their components, namely the following: the 1986 20-Points Programme which provides, inter alia, for full implementation of laws abolishing bonded labour and involvement of voluntary agencies in the rehabilitation programme; the centrally sponsored scheme for rehabilitation and the Central Government's instructions to integrate this scheme with other anti-poverty programmes; the establishment in 1987 of the National Commission on Rural Labour, which has responsibility for bonded labour. In regard to the implementation of the 1976 Act, in particular in relation to these different programmes and initiatives, the Committee notes the following points, taking into account the extracts from the report by the Subcommittee of the Parliamentary Committee attached to the Ministry of Labour, which were communicated by the Government:

- (a) Identification and the role of vigilance committees. The Committee observes that the Parliamentary Subcommittee notes in its report that the process of identification, which the Government itself considers as the first basic step in addressing the problem of bonded labour, was in 1986-87 slow as compared to previous years; no targets are set to State Governments for identification (while targets for rehabilitation are set in the 20-Points Programme) - criticism is raised that the number of bonded labourers in the country is much larger than the identification made and that the process of identification is slow. The Parliamentary Subcommittee stresses the importance of surveys to be conducted for identification and emphasises the importance of vigilance committees, in particular as they are meant to secure the involvement of non-officials in the work of identification and rehabilitation; in the course of field visits it noted that vigilance committees had not been constituted and/or reconstituted in all districts and subdivisions where the problem of bonded labour is known to exist, and, where

constituted, their meetings were not always held on a regular basis.

The Committee recalls that under section 14 of the 1976 Act vigilance committees are inter alia to advise on proper implementation of the Act, provide for economic and social rehabilitation of the freed labourers, co-ordinate the functions of rural banks and co-operative societies with a view to providing adequate credit to the freed labourers, etc. Under the Bonded Labour System (Abolition) Rules, 1976, the registers to be maintained by the vigilance committees include in particular the names and addresses of the freed bonded labourers, details of the benefits which they receive, including benefits in the form of land, inputs in agriculture, training in handicrafts and allied occupations, and loans. Taking into consideration the above-mentioned report of the Parliamentary Subcommittee and noting the indication by the Government that State Governments have been asked to ensure that vigilance committees are constituted, hold regular meetings and maintain and keep registers, the Committee requests the Government to provide full and detailed information: on the number of vigilance committees constituted and/or reconstituted in each State in comparison with the number of districts and subdivisions; on their activities, in particular on the results achieved in identification and rehabilitation where such committees exist; on the problems encountered and remedies suggested or introduced (for instance participation in these committees, methods of work); and on any proposals made for improvement so as to allow these committees to exist, function effectively and contribute to the abolition of the bonded labour system. The Committee also requests the Government to provide information on any steps taken, including any written instructions given or incentives made available by the Central Government to the State Governments, and to support and promote activities of the vigilance committees as well as steps taken by State Governments in this regard. The Committee further requests the Government to provide information on any recent studies and surveys, whether at the union or state level, conducted to ascertain the real number of bonded labourers which remain to be identified and rehabilitated.

- (b) Scheme for the involvement of voluntary agencies. As regards the scheme providing for the involvement of voluntary agencies in the identification and rehabilitation of bonded labourers, the Committee notes the information provided by the Government in its report concerning subsidies paid to such agencies: a voluntary agency is given a lump sum of Rs.5,000 as a managerial subsidy; for each release order in excess of 20 it will receive an additional amount of Rs.100 as an incentive up to a maximum amount of Rs.5,000; the total amount of a subsidy can thus not exceed Rs.10,000. According to the Government this maximum has been fixed to avoid any misuse of the scheme; however there is no maximum limit in regard to rehabilitation. Noting also the Government's statement in its report that the scheme was launched on 30 October 1987 and that it was too early to assess its functioning, the Committee requests the Government to provide

information on the operation of the scheme and on the results achieved, indicating in particular to what extent this scheme has accelerated the process of identification and rehabilitation, its efficiency, improvements envisaged and any comments and suggestions made by the voluntary agencies concerned, such as the Bonded Labour Liberation Front, including reports by such agencies or from official sources.

- (c) Scheme for rehabilitation. The Committee notes that under the centrally sponsored scheme for rehabilitation of bonded labour a sum of Rs.6,250 is to be spent for the rehabilitation of each bonded labourer. Out of this sum Rs.500 are meant to be given in cash to the bonded labourer soon after his release to enable him to tide over the period till his rehabilitation. The Committee requests the Government to indicate whether such a sum has proved sufficient to avoid the newly freed labourer falling back into bondage on account of the lack of means of subsistence, given in particular the fact that a long period of time elapses between his release and his rehabilitation. The report by the Parliamentary Subcommittee indicates that there is often a very long gap between identification and rehabilitation: the target for 1987-88 for the rehabilitation of bonded labour in respect of Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Maharashtra, Orissa and Rajasthan is less than the number of bonded labourers who had been identified but had not yet been rehabilitated as of 31 March 1987. The Subcommittee considers that in the context of the large backlog of identified bonded labour which still remains to be rehabilitated, it is abnormal that the annual targets for rehabilitation of bonded labour have been going down gradually. The Subcommittee stresses that every effort should be made to rehabilitate by the end of 1988-89 all bonded labourers who had been identified.

Since the timely rehabilitation of identified and freed bonded labourers is of the utmost importance, the Committee requests the Government to provide information on measures taken or envisaged to accelerate the process of rehabilitation of the identified bonded labourers, in order, in particular, to reduce the danger that a newly freed bonded labourer may fall back into bondage through lack of means of subsistence.

- (d) Integration of the scheme for rehabilitation with other anti-poverty schemes. In relation to the Central Government's instructions that the centrally sponsored scheme for rehabilitation of bonded labour be integrated with other anti-poverty programmes, the Committee notes the Government's indication in its report that the results are difficult to assess. The Committee notes however the information contained in the report of the Parliamentary Subcommittee on the functioning of some of these schemes. According to the report, the Department of Rural Development has issued instructions that houses constructed under the National Rural Employment Programme (NREP) and the Rural Landless Employment Generation Programme (RLEGP) should be made available to released bonded labourers free of cost; however the Subcommittee found in the course of its field visits that although some efforts at integration had been made, a

lot remained to be done to provide houses to all released bonded labourers. As regards integration with other anti-poverty programmes such as the Integrated Rural Development Programme (IRDP) the Subcommittee considered that generally action plans had not been drawn up to ensure the integration of the centrally sponsored scheme with other anti-poverty programmes.

The Parliamentary Subcommittee states in its report that the centrally sponsored scheme envisages land-based and non-land-based patterns of assistance; complaints have been voiced that the land-based schemes are not useful where the land distributed is non-cultivable; similarly, in regard to non-land-based schemes, it has been alleged that sometimes cattle are of bad quality; in addition, according to the Planning Commission, 42 per cent of the beneficiaries have reported that the schemes were not of their choice but had been thrust on them. Since the nature and the adequacy of rehabilitation is extremely important, the Committee requests the Government to provide detailed information on any action plans adopted to promote the integration of the bonded labour scheme with other anti-poverty schemes, on measures effectively carried out and on results achieved.

- (e) Proposal for the institution of a National Commission on Bonded Labour. The Committee notes that during the discussions in the United Nations Working Group on Contemporary Forms of Slavery during its 15th Session, July 1990, Anti-Slavery International stated that the continued gravity and magnitude of the bonded labour system was partly the result of the central weakness in the design and functioning of the machinery for the implementation of the Bonded Labour System (Abolition) Act, 1976. It called for the establishment of a National Commission on Bonded Labour. The Committee hopes that the Government will provide information in relation to this proposal.

3. Enforcement of sanctions. 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. Under the Bonded Labour System (Abolition) Act, 1976, compulsion to render bonded labour, advancement of bonded debt, enforcement of any custom, tradition, contract, agreement or other instrument requiring any service to be rendered under the bonded labour system are punishable with imprisonment for up to three years and a fine of up to Rs.2,000 (sections 16, 17 and 18 of the Act); the Act provides for various measures to be taken by state authorities to ensure punishment of offenders. In its previous observation the Committee noted however that few cases of imprisonment had been reported and it requested the Government, in view of the gravity of the problem, to take effective measures to secure the rigorous application of the laws prohibiting and punishing bonded labour.

The Committee notes the Government's indication in its report that the Union Labour Minister has stressed to the State Governments the need to launch prosecutions against bonded labour keepers immediately after identification and release of bonded labourers and that in order to avoid any misuse of the allocation of the pecuniary

grants, the Union Government has made it clear that if a fresh identification of bonded labour is not accompanied by the launching of prosecution against the bonded labour keeper, the Government may refuse to pay its share of money for rehabilitation. The Committee requests the Government to provide information on the results achieved by these measures which are intended to avoid corruption and misappropriation of funds but which at the same time must not adversely affect the process of identification and freeing of bonded labour.

4. The Committee has also taken note of the information provided to the United Nations Working Group on Contemporary Forms of Slavery at its 14th Session concerning actions brought before the Supreme Court of India by social action groups which resulted for instance in the release of several thousand bonded labourers in April-May 1988 in the district of Raipur. The Committee requests the Government to provide detailed information on the actions brought before the Supreme Court of India and the High Courts of the different States concerning bonded labour, the decisions taken by the Courts and the implementation of these decisions by state authorities. It also requests the Government to provide information including statistics on the number of prosecutions made, sanctions imposed and any other relevant information permitting the Committee to assess the efficiency of the enforcement mechanisms.

Child bonded labour

5. The Committee has taken note of the discussions in the Working Group on Contemporary Forms of Slavery of the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities at its 14th and 15th Sessions, 1989 and 1990. The Committee notes that the reports of the Working group (doc. E/CN.4/Sub.2/1989/39 of 28 August 1989 and E/CN.4/Sub.2/1990/44 of 23 August 1990) refer to information provided by Anti-Slavery International concerning child labour in relation 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 India, the report refers to children in bondage in numerous occupations, working under inhuman and hazardous conditions. This report states that debt bondage, force or compulsion is common in almost all categories of child labour. A semi-feudal master-servant relationship supplemented by the vicious circle of indebtedness, and caste structure creates the most exploitative form of child servitude, which prevails in the agrarian as well as in other sectors. According to the estimates contained in the report several million children, between the ages of 5 and 14, are in chronic bondage in agriculture; around a million in the brick kiln, stone quarry and construction industries; hundreds of thousands in carpet-weaving, handlooms, match and fire works, glass bangles, diamond-cutting and polishing, as well as in lock-making. Child bondage and forced labour is connected with the trafficking and kidnapping of children, repression, beating, sex abuse, starvation, abnormal working hours, no freedom of movement,

unhygienic and dangerous working conditions, and exposure of the children to grave health hazards.

According to the report, constitutional and legislative provisions adopted to protect the children exist, but are not applied. The Committee notes that article 24 of the Constitution of India provides that no child below the age of 14 years shall be employed to work in any factory or mine or employed in any hazardous employment; under article 39 the State shall direct its policy towards securing that the tender age of children is not abused and that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. Provisions enacted for the welfare of children establishing a minimum age for employment, prohibiting night work and requiring medical examinations are contained in a series of legislative texts, in particular in the Child Labour (Prohibition and Regulation) Act, No. 61 of 1986. The child bonded labour system was declared an offence for the first time in 1933 under the Children (Pledging of Labour) Act, and, as mentioned above, the bonded labour system was outlawed in 1976 under the Bonded Labour System (Abolition) Act No. 19 of 1976.

The report of the seminar alleges that despite protective legislation, the situation in practice of bonded children is not improving: for instance in the Mirzapur Bhadohi belt, the carpet-weaving region in Uttar Pradesh, despite the 1983 judgement of the Supreme Court of India and the report by the Commissioner designated by the Court and the subsequent release of more than 1,000 bonded children, child welfare legislation continues to be openly violated, and organised rackets of kidnapping or luring away of children and forcing them to weave are continuing. The Committee notes that in a Government of India project document made available to the ILO (ILO, Conditions of Work Digest, Vol. 7, No. 1/1988, p. 125) it is stated that despite the 1986 Child Labour (Prohibition and Regulation) Act, under which carpet weaving continues to be a prohibited activity for children, children are still employed in a clandestine manner; there are three categories of child workers: children of the loom-owners themselves; children from neighbouring areas; and children sent from distant places, some of whom have been sold by their parents or by unscrupulous middlemen and therefore work as bonded labourers. The project provides that priority education will be given to young children and children from other States who are either working as bonded labourers or who have lost contact with their families.

The report of the seminar further alleges that despite sanctions provided for in legislation, exploiters have no fear of being punished or penalised, the enforcement machinery is weak and the indolence of the authorities, and collusion and corruption hamper identification, release and rehabilitation of the bonded children. As regards, in particular, rehabilitation, the report calls for a more global approach including measures such as a separate rehabilitation scheme for child bonded labourers, and free and compulsory education at least for bonded children.

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 measures adopted or contemplated to eradicate in practice the exploitation of child labour including child bonded labour. Noting that under section 16 of the Child Labour (Prohibition and Regulation) Act, 1986, any person, police officer or inspector may file a complaint of the commission of an offence under the Act, the Committee would appreciate information on the complaints filed, in particular, in regard to bonded child labourers, prosecutions launched, penalties imposed including copies of court decisions. It also requests the Government to indicate to what extent it was possible to take advantage of complaints and/or prosecutions initiated under the 1986 Act to initiate also proceedings under the Bonded Labour System (Abolition) Act, 1976 so as to identify, free and rehabilitate the bonded children concerned. The Committee recalls in this connection that under the Bonded Labour System (Abolition) Act, 1976, the penalty provided for is imprisonment for up to three years and a fine up to Rs.2,000 while under the Child Labour (Prohibition and Regulation) Act, 1986, such penalty is imprisonment between three months and one year or a fine between Rs.10,000 to Rs.20,000.

6. The Committee notes with interest the National Policy on Child Labour and different projects and initiatives related to child labour which are referred to in the ILO Conditions of Work Digest, Vol. 7, No. 1/1988. The Committee notes in particular with interest that the National Policy on Child Labour includes a legislative action plan, an anti-poverty oriented development programme, and an area-specific plan of action. The Committee hopes that the Government will provide information on the action already taken to put into practice this national policy and on results achieved as well as on any further concrete steps envisaged in the near future.

Kenya (ratification: 1964)

In previous comments the Committee has noted that, under sections 13 to 18 of the Chief's Authority Act (Cap. 128), able-bodied male persons between 18 and 45 years of age may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year. It has expressed the hope that these sections would be either repealed or amended so as to meet the criteria for "minor communal services" which are exempted from the scope of the Convention under its Article 2, paragraph 2(e).

The Committee notes with interest the Government's indication in its report that it intends to repeal or to amend sections 13 and 17 of the Act, so as to restrict their scope and bring them within the exception provided for in Article 2, paragraph 2(e), of the Convention, as it is recognised that in law the aforementioned sections of the Act are not in full conformity with the Convention.

The Committee hopes that the Government will soon be able to report on the adoption of the necessary amendments.

Liberia (ratification: 1931)

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 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 noted 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 noted that no such report had 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 noted 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 noted 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 Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Libyan Arab Jamahiriya (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:

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.

Mauritania (ratification: 1961)

The Committee takes note of the information supplied by the Government in its report for the period ending 30 June 1989, which reached the ILO in May 1990. It also notes the discussions that took place at the Conference Committee in June 1990 on the application of the Convention in Mauritania.

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, and pointed out that the Ordinance did not contain provisions imposing penal sanctions for the illegal exaction of forced labour. The Committee also noted from the indications contained in a document submitted to the United Nations Human Rights Commission (document E/CN.4/Sub.2/1984/23) the adoption of 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 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) to the effect that 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 had previously noted the Government's indications that forced or compulsory labour is prohibited under section 3 of the Labour Code and is punishable, under section 56(a) of the same Code, by penal sanctions, and that the practice of forced labour no longer exists in the country. The Committee 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 Article 25 of the Convention, not only shall the illegal exaction of forced or compulsory labour be punishable as a penal offence, but 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 provide 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 requested the Government to send 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 is bound to note that the Government's report contains no reply or information corresponding to its request: the Government refers to section 1 of the 1961 Constitution which guarantees equality before the law, and indicates that Ordinance No. 81-234 to abolish slavery is devoid of effect since, according to the Government, it merely confirms a de facto situation. According to the Government, the evolution of national institutions and society precludes the existence of forced labour in law and in practice. In

this connection, the Committee is bound to reiterate the observation that it made previously on the Labour Code.

The Committee notes that the various texts adopted before independence prohibited slavery and forced labour without preventing it in practice. These texts were: the Decree of 1905 to abolish slavery; Act No. 46-645 of 11 April 1946 to suppress forced labour in the overseas territories; and Act No. 52-1322 of 15 December 1952 to establish a Labour Code in the Territories and Associated Territories under the Ministry for Overseas France.

The Committee notes the discussions of the Working Group on Contemporary Forms of Slavery of the United Nations Subcommission on the Prevention of Discrimination and the Protection of Minorities, at its 15th Session, 1990. The Committee notes that the report of the Working Group (document E/CN.4/Sub.2/190/44) refers to information from the Anti-Slavery International to the effect that, despite progress in terms of legislation, particularly in the field of employment, there is very little concrete evidence to indicate effective implementation of legislation: there has been no strengthening of inspection (especially with regard to freed slaves who have remained with their masters), and no specific body has been entrusted with co-ordinating the struggle against slavery. There are continuing reports of forced labour, kidnapping of children, and of torture meted out to slaves who tried to escape.

The Committee hopes that the Government will provide detailed information on all the points raised previously and recalled above, and particularly on the measures that have been taken or are contemplated to enforce the decisions to abolish slavery, the results obtained and the sanctions imposed for non-observance of the provisions abolishing slavery.

The Committee also refers to the provisions of Ordinance No. 81-234 of 9 November 1981 which provide that the abolition of slavery would entail the payment of compensation, the procedures for which would be established by decree, and to the discussions that took place at the Conference Committee on this matter, and asks the Government to indicate whether the above provisions have been repealed or, on the contrary, implemented.

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 notes the Government's statement to the Conference Committee that measures are envisaged to bring the national legislation into conformity with the provisions of Article 2 of the Convention, and that the re-establishment of trade union structures will permit the draft Labour Code to be submitted to the National Labour Council.

The Committee again expresses the hope that the Government will shortly provide the texts repealing or amending the provisions in question to bring the legislation into conformity with Article 2 of the Convention in this regard.

Morocco (ratification: 1957)

The Committee takes note of the Government's report.

1. Article 25 of the Convention. In the comments it has been making for many years, the Committee has referred to the absence of penal sanctions for the illegal exaction of forced labour. Since 1969, the Government has referred to a draft Labour Code which is to provide for the prohibition of forced or compulsory labour enforceable by penal sanctions. The Committee asks the Government to report on the progress of the draft Labour Code which, according to the Government's previous indications, was to be submitted to Parliament. It hopes that the Labour Code will be adopted shortly and that it will bring the legislation into conformity with the Convention in this respect.

2. Article 2, paragraph 2(c). In its previous comments, the Committee noted the Government's statement 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 hopes that the planned amendments to the legislation, to which the Government has been referring for many years, will be adopted in the near future and that the Government will provide the text of the provisions that ensure observance of the Convention on this point.

3. Article 2, paragraph 2(d). For many years, the Committee has been referring to 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.

The Committee also referred to a Bill amending provisions on the right to call up persons and noted that although some of the situations envisaged in the Bill are within the limits of Article 2, paragraph 2(d), this was not necessarily the case for others (for example, public transport or installation or maintenance of public services, other than those essential for the life of the nation, which are also covered by the Bill).

The Committee 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 Bill and the draft implementing Decree to be issued thereunder, which had also been mentioned by the Government, 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.

4. Article 2, paragraph 2(a). The Committee notes the information provided by the Government concerning the provisions under which military recruits may be assigned to work of a general nature and the provisions introducing civic service for certain holders of higher academic qualifications. The Committee is again addressing a direct request on this subject to the Government.

Myanmar (ratification: 1955)

The Committee notes the comments of 17 January 1991 by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention and the information submitted in the annexed documents.

In its comments the ICFTU indicates that the practice of compulsory portering is widespread in the country and involves many thousands of workers: the majority of porters used by the army are forcibly recruited and harshly exploited; rarely, if ever, paid; inadequately fed and cared for; required to carry excessive loads; and exposed to acute physical hardship and danger. According to the documents there is no formal regulation or supervision of the conditions of work of porters, which are, in practice, determined at the discretion of local military commanders. As a result many of them die or are killed in the course of forced labour, some are used as human shields during military actions, others are shot when trying to escape or are killed or abandoned when as a result of malnutrition or exhaustion they are no longer able to carry their load.

The comprehensive documentation submitted by the ICFTU contains detailed and specific indications to back these allegations.

The Committee hopes that the Government will provide detailed comments on these allegations as well as full information on any measures adopted or contemplated to ensure observance of the Convention.

Pakistan (ratification: 1957)

The Committee notes that no report has been received from the Government. The Committee has however taken note of the discussion that took place in the Conference Committee in 1990 on the application of the Convention by Pakistan.

Bonded labour. 1. 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 had requested the Government to supply detailed information on the actual measures taken or envisaged in this regard.

The Committee noted 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 received in March 1990, the Government stated that no "Kharkar" camps are in the knowledge of the Government and no child labour is allowed to exist; in order to dispel apprehension in this regard the Government indicated that it proposed to introduce a law in the Parliament whereby exploitation of labour in all its forms, including bonded labour, would be an offence punishable under the law and that the draft Bill on abolition of bonded labour was under preparation.

The Committee notes the information provided by the Government to the Conference Committee in 1990 that it has decided to abolish bonded labour through a law which would ensure complete freedom of bonded labourers. The proposed law had been approved by Cabinet and was soon expected to be enacted. Under this law, bonded labourers would be freed from any obligation to render any labour; the law would make void and inoperative all customs, traditions, practices, contracts or agreements obliging bonded labourers or their families, whether they were entered into or in operation before or after its entering into force. Under the law, every obligation of the bonded labourer to repay any bonded debt or part thereof would be extinguished and unenforceable. Those who violated the law would be punished with substantial fines and penal sanctions. Bonded labourers working after the commencement of the law would be paid at the prescribed rates and application of the law would be monitored by local vigilance committees.

The Committee notes these indications with interest. It hopes that the Government will provide information on action taken in this regard.

2. The Committee recalls that it noted the discussion in the Working Group on Contemporary Forms of Slavery of the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities at its 14th Session which took place in August 1989. The Committee noted that the Report of the Working Group (doc. E/CN.4/Sub.2/1989/39 of 28 August 1989) referred to information provided by Anti-Slavery International 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, shoemaking, 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 Anti-Slavery International referred to the brick-kiln labourers who are considered bonded labourers in an order of the Supreme Court of Pakistan 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, either in the census - hence no right to vote, or 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 his 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 subhuman 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, shoe-making, 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. Three thousand 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 also noted 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 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 No. 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 also took 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 regarding 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 police powers 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 First Information Report (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 expressed the hope that, further to the Supreme Court Orders on bonded labour in the brick-kiln industry, the necessary measures would 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 would supply detailed indications on the action taken or envisaged to this end. In particular, the Committee requested 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) 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.

The Committee hopes that the Government will provide the information in question.

Restrictions on termination of employment. 3. 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 noted the Government's indication to the Conference Committee in 1989 that the Government had 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 noted the Government's indication in its report for the period ending June 1989 as well as to the Conference Committee in 1990 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.

Peru (ratification: 1960)

The Committee notes the comments submitted in April 1990 by the National Federation of Miners, Metalworkers and Iron and Steelworkers of Peru (FNTMMSP) concerning the application of Convention No. 29, a copy of which was transmitted to the Government in April 1990 so that it could make any comments it deemed appropriate.

In its comments, the above organisation alleges the existence of situations that infringe Convention No. 29, involving gold prospectors and workers in chestnut-peeling enterprises.

The documents appended to the above trade union's comments refer in particular to dishonest hiring practices known as "enganche" on the part of individuals or agencies, for the most part in Puno and Cuzco, that recruit for mining enterprises holding licences from the National Directorate of Mines. The contracts offered are usually for 90 days (which is why these workers are called "noventeros" (90-day

workers)). At the end of the 90-day period, employers are supposed to cover the costs of workers' return journeys, but generally fail to do so with the result that workers are unable to return to their place of origin.

The FNTMMSF also indicates that, as regards working conditions, wages are too low, working hours too long and medical care non-existent, despite the high risk of contracting diseases such as malaria, tuberculosis and uta (disease of the skin).

The FNTMMSF also alleges that in the chestnut-peeling enterprises in Puerto Maldonado, hundreds of children work alongside their mothers for up to 12 hours a day and receive no remuneration whatsoever. These enterprises mainly hire mothers, who enlist the assistance of their children in order to fill the six barrels of chestnuts that are required daily.

The Committee recalls that for a number of years it has been asking the Government to provide information on the conditions of employment of persons who in practice work under the system known as "enganche" and on all measures taken to secure observance of the Convention in this respect.

In this connection, the Committee notes that, according to the conclusions of the final report of the Multi-Sectoral Committee (established by Resolution No. 083-88-PCM) on the situation of the indigenous communities of Atalaya, certain communities are subjected to debt bondage on large and medium-sized agricultural and/or forestry estates, and constitute an unpaid or only partly paid workforce, being subject to the mechanisms of the system of "advances" or "enganche". In many cases, this bondage shows characteristics of slavery.

The Committee takes note of the indications concerning "enganche", to the effect that it is a system whereby the indigenous workforce is exploited by means of the so-called "advances" given by the employer to the worker and which may take the form of tools, food or money, so that the worker may fell the wood and, in theory, use it to pay back the initial debt and earn an income to provide for his family. Compelled to pay back the original advance plus interest, the indigenous workers are thus trapped in a vicious circle in which exploitation and poverty are a permanent way of life. The Committee has also noted allegations of cases illustrating the above situation.

In the absence of any information from the Government on the questions raised and in view of the information received from the above-mentioned trade union, the Committee hopes that the Government will take the necessary measures to investigate the situations described above and, where necessary, apply appropriate sanctions, in accordance with Article 25 of the Convention. The Committee hopes that the Government will provide detailed information on measures taken.

Romania (ratification: 1957)

The Committee notes the information supplied by the Government in its report and the discussions held in the Conference Committee in 1990.

1. The Committee notes with satisfaction that Act No. 5/1978, respecting the organisation and operation of state socialist units, as amended by Act No. 24/1981, was repealed by section 58 of Act No. 15, of 7 August 1990, on the reorganisation of state economic units into independent boards and commercial firms. Under the terms of section 57 of Act No. 15/1990, the repeal comes into force six months after the date of publication of the Act in the Official Journal (and nine months after that date for agricultural units). The Act was published on 8 August 1990. The Committee recalls that its comments concerned section 71(8) of Act No. 5/1978, as amended, under which any worker who leaves a unit for another 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.

2. The Committee also notes with interest the information supplied by the Government concerning the repeal of a number of legislative provisions, the practical application of which resulted in obligations to work that were contrary to the Convention.

(a) Decree No. 54/1975 concerning the assignment to work of graduates from higher learning institutions has been repealed by Legislative Decree No. 14 of 10 January 1990. The Government states in its report that under Decree No. 54/1975, every graduate was on trial for either two or three years in the enterprise indicated in the assignment document, under penalty, if this period was not completed, of being excluded from employment that corresponded to the graduate's qualifications and of being obliged to repay the cost of their studies. The Government indicates that the new assignment system introduced by Legislative Decree No. 14/1990 is optional for the graduates, and binding for the enterprise mentioned in the assignment document.

(b) Act No. 22/1981 on the assignation of managerial staff to specific sectors of activity in certain zones has been repealed by Legislative Decree No. 1 of 26 December 1989 to repeal certain acts, decrees and other statutory instruments.

(c) Decree No. 9/1983 respecting work for the national economy by soldiers and retired career military personnel has been repealed by Legislative Decree No. 22 of 22 January 1990. Act No. 1/1985 concerning self-management, economic and financial self-administration at county level, which imposed labour under penalty of fines in the event of refusal to comply has been repealed. The Committee requests the Government to supply copies of the provisions repealing the above Decree and Act.

3. In its previous comments, the Committee referred to section 1(d) of Decree No. 153, of 24 March 1970, under which categories of persons with a parasitic or anarchical way of life, are punishable with penal sanctions. The Committee notes the Government's statement in its report that the provisions of this Decree have not been applied since December 1989 and will be repealed.

The Committee notes the Report submitted to the Commission on Human Rights of the United Nations at its 47th Session (February 1991) by a Special Rapporteur on the human rights situation in Romania (Document E/CN.4/1991/30, of 8 January 1991). The Report indicates that arrests, charges, and convictions were made in 1990 under the terms of Decree No. 153/1970, whose improper use against political opponents under the former regime had been criticised and which the present authorities reportedly proposed to abolish. Members of the rom (gypsy) community have reportedly been tried in accordance with the emergency procedure provided for in the Decree.

The Committee requests the Government to indicate the measures that have been taken or are envisaged to repeal the Decree at issue and ensure that the Convention is observed in this respect in both law and practice.

4. In its previous comments, the Committee referred to Act No. 24/1976, which makes it compulsory for persons without employment to register with the Directorate of Labour or its regional offices, with a view to being placed in employment, and to Act No. 25/1976, under which any decision concerning assignment to a workplace was compulsory. Having noted the repeal of Act No. 25/1976, the Committee had asked the Government to supply information on the application in practice of Act No. 24/1976.

The Committee notes the information supplied by the Government in its report that the provisions of Act No. 24/1976, although remaining in force, are not applied and will be totally or partially repealed when the Bill respecting unemployment benefit and the reinsertion of the unemployed has been adopted. Furthermore, according to the Government, contracts should only be concluded under the current legislation after a competition to assess the vocational qualifications of the candidates, thereby limiting the scope of the provisions of Act No. 24/1976, which should contribute to vocational guidance without restricting freedom of choice of suitable employment.

The Committee takes due note of these explanations. It requests the Government to supply information on any measures that have been taken or are envisaged to guarantee that the provisions of Act No. 24/1976 cannot in practice serve as a means of compulsion to work, and to supply a copy of any text that totally or partially repeals these provisions.

5. In its previous comments, the Committee noted that under section 15(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, and it requested 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.

The Committee notes the information supplied by the Government to the Conference Committee according to which agricultural co-operatives are engaged in a process of fundamental transformation following the adoption of Legislative Decree No. 42/1990, which distributed 3 million hectares of land, representing about 30 per cent of the country's arable land, to peasants as private farms. Many agricultural co-operatives have therefore disappeared or are being reorganised into farms, joint stock companies or other forms of

ownership. The Committee also notes the Government's statement in its report that the provisions of section 15(3), as well as the other provisions of Decree No. 93/1983, have fallen into abeyance and that, in a report to Parliament on 18 October 1990, the Prime Minister stated that a Bill on landownership, permitting the withdrawal of members of co-operatives and the dissolution of co-operatives by their members would be submitted to Parliament.

The Committee requests the Government to supply information on the provisions that have been adopted in this respect that guarantee the freedom of members to leave co-operatives.

6. The Committee notes the "Theses for the draft Constitution of Romania", prepared by the Parliamentary Commission for drafting the Constitution of Romania and transmitted by the Government to the ILO. The Committee is addressing a request directly to the Government concerning the definition of forced labour appearing in Title II, Chapter 2, point 16 of the Theses.

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.

Spain (ratification: 1932)

In its previous observation, the Committee noted that the Prison Regulations (RD No. 1201/81) do not establish clearly that the free consent of convicts is required for them to work in private enterprises.

The Committee noted the comments submitted by the Trade Union Confederation of Workers' Committees concerning the application of the Convention, in which the above organisation alleged that prisoners are

not guaranteed the conditions of employment set out in agreements as regards working hours, remuneration and benefits. The Confederation also indicated that the conditions to which prisoners are subject as regards social security are not the same as those for other workers.

In its report the Government again states that productive prison labour is subject to the labour legislation (sections 185(1)(c), 185(2), 186(1), 189 and 191 of the Prison Regulations), implying that it is performed on a voluntary basis and that the specific standards contained in the Regulations are applied.

So that it can ascertain the current situation with regard to practice, the Committee asks the Government to provide copies of agreements that have been signed between prisons and private enterprises, of contracts signed between prisoners and private enterprises, and any other relevant information on the conditions of employment of convicts who work for private enterprises.

The Committee also asks the Government, so as to avoid any ambiguity, to take the necessary measures to establish the voluntary nature of labour by convicts in private enterprises, i.e. with regard to their explicit consent and the conditions of a free employment relationship.

United Republic of Tanzania (ratification: 1962)

The Committee notes the information provided by the Government in its report and the discussion which took place in the Conference Committee in 1990.

The Committee notes in particular the Government's indications that it considers the observations by the Committee as valid and that legislation is currently under revision. The first part of the revision covers labour laws. The draft texts of the revised laws have already been debated by employers' and workers' organisations and the Labour Advisory Board and will be tabled before the National Assembly as soon as practicable. The second part of the review exercise covers other legislation which requires extensive interministerial consultations: the Ministry of Labour and the Labour Law Review Committee of the Law Reform Commission on which employers' and workers' organisations are represented are working on a final report to be submitted to the Government for further action. The Labour Law Review Committee has included among its recommendations the comments and observations of the Committee as issues that need immediate attention.

The Committee hopes that the Government will provide further information on the measures taken to bring national legislation into conformity with the Convention and on the provisions actually adopted on the following matters to which the Committee referred previously:

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. Although 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 noted that a number of by-laws adopted in 1984 and 1985 specifically restrict the production of food crops and 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; on its request concrete proposals from the ILO to this effect were forwarded in May 1982. The Committee had noted the Government's indication that labour laws are under revision, but it pointed out 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 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.

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 the Written Laws (Miscellaneous Amendments) (No. 2) Act, 1983, amended section 176 of the Penal Code 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 guidelines followed by administrative authorities in deciding who is chargeable under this provision. 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, 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. The Committee noted previously the Government's indication 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 under preparation is adopted.

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, 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 had 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 the United Republic of 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 again expresses the hope that the provisions of the Resettlement of Offenders Act, 1969, and the 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.

Thailand (ratification: 1969)

The Committee notes that no report has been received from the Government. The Committee has however taken note of the discussion which took place in the Conference Committee in June 1990 on the application of the Convention by Thailand.

Article 25 of the Convention. In previous comments the Committee noted allegations brought before the United Nations Subcommission 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, while 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 Subcommission 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 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 had been sentenced or obliged to pay monetary penalties or outstanding wages; the Government had supplied the previously mentioned court decision sentencing an employer to three months' imprisonment.

The Committee further noted the Government's indications concerning various rehabilitation measures and the role of the different aforementioned institutions. The Committee noted 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 to recommend ways and means to resolve problems of child labour within and outside establishments, undertake studies and research on the problem of the use of child labour within and outside the industrial sector. The Committee also took 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, and are deprived of protection or welfare benefits. The Committee also noted 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 appeared to the Committee from the documents submitted with the Government's report that these measures were somewhat limited in scope and the pecuniary sanctions applied were 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 notes the statement by the Government to the Conference Committee in 1990 that the illegal exaction of forced or compulsory labour was punishable as a penal offence and that penalties were strictly enforced, as shown by the written information provided on two cases of employers sanctioned one by three months imprisonment, the other by a fine. Rates of pecuniary sanctions were determined by a committee composed of the Directors-General of the Departments of Labour, of Public Prosecutions and of the Police. These rates were adjusted according to the seriousness of the offence; in extreme cases imprisonment was imposed. According to the statistics on labour inspection of the Woman and Child Labour Division, there had been 11 prosecutions of employers for exploitation or illegal use of child

labour in 1988, two in 1989 and four between October 1989 and May 1990. All of these cases had been prosecuted by officers of the Legal Division of the Department of Labour. Fines of US\$4,200 had been imposed on 13 employers, and four cases were still pending. One of the cases (referred to in the Government's written communication) concerning the illegal employment of children had been the subject of a judgement handed down by the criminal courts.

The Government also stated that a series of measures had been taken to prevent the sale and purchase of children, namely: a campaign to arouse public awareness of the relevant provisions of the labour laws and to educate employers about the legislative provisions pertaining to child labour; the promulgation of Announcement No. 12 of the Ministry of the Interior to protect children from being sold and purchased; the creation of a joint working group of officials from two divisions of the Department of Labour (the Labour Protection Division and the Woman and Child Division) to monitor the child labour situation, especially during the period after the harvest. Child labourers who are migrating from any part of the country to urban areas would be inspected by this working group as regards their workplace, their living conditions, their employment, their wages, etc., and if there was any irregularity, the matter would be entrusted to labour inspectors working in such areas for further action. The Government also indicated that the extension, under the new Primary Education Act, of primary education from six to nine years of age, which had been approved by the Cabinet, would come into force in 1991.

The Committee also notes the Government's indication that recent statistics of the Department of Public Welfare showed that the average percentage of children under 15 years of age working in nightclubs and brothels had increased from 3.50 per cent in 1977 to 5.85 per cent in 1989. When these children were found by the police, they were sent to homes where they received medical care, education, training, etc. All those measures were supplemented by preventive and protective measures. In that context, a national campaign to arouse public awareness had been launched, centres for vocational training for women had been established in all parts of the country (such centres could prevent child migration to metropolitan areas), and the Brothel Elimination Act was being revised so as to impose higher penalties on offenders and so as to extend its scope.

The Committee notes these indications with interest. The Committee hopes that the Government will supply detailed information on the application and enforcement of the various measures in relation to the application of the Convention. The Committee recalls in this connection 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 expresses the hope that the Government will provide detailed information on measures taken to ascertain that the Convention is applied in practice, including further 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 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 nightspots and brothels and from illegal employment in private houses, hotels, restaurants and factories. Referring in this connection to the Government's indication that the number of working children in nightclubs and brothels had increased and that the Brothel Elimination Act was being revised, the Committee hopes that the Government will provide detailed information on the action taken in this regard and the results achieved.

Tunisia (ratification: 1962)

1. In its previous comments, the Committee referred to:

- the provisions of Legislative Decree No. 62-17 of 15 August 1962, under which any male person who without just cause refuses to work may be directed to rehabilitation through work on state worksites;
- the provisions of Act No. 78-22 of 8 March 1978 to establish civic service, under which any Tunisian between 18 and 30 years of age who cannot show that he has a job or is registered in an educational or vocational training establishment may be assigned, for one year or longer, to economic and social projects or rural or urban development projects, under penalty of compulsory rehabilitation through work in the event of refusal or desertion.

The Committee noted that an interdepartmental committee was due to meet in order to draw up proposals for the amendment of the above texts in order to bring certain of their provisions into conformity with the Convention.

The Committee notes the Government's indication in its report that information on the outcome of the work of the above committee will be supplied in due time. Noting that the above texts have been the subject of its comments for more than 20 years, the Committee trusts that the Government will report in the very near future on amendments made to bring these texts into accordance with the Convention.

2. The Committee noted previously that under the provisions of Act No. 86-27 of 2 May 1986, conscripts could be assigned to development units in the administration or in enterprises, and that under the terms of implementing Decree No. 87-1014 of 2 August 1987, they were subject to military conditions of service. With reference to Article 2, paragraph 2(a), of the Convention, the Committee requested the Government to indicate the measures taken or contemplated to ensure the observance of the Convention in this regard.

The Committee notes that Act No. 89-51 of 14 March 1989 respecting national service, which repeals Act No. 86-27 of 2 May 1986, does not change the substance of the provisions that were the subject of its previous comments. The Committee notes that following a basic military training and once the requirements of the units in the armed forces have been satisfied, conscripts may, by virtue of section 3 of the Act No. 89-51, be assigned collectively to the internal security forces and to development units, or be assigned individually to the public administration, to enterprises or to technical co-operation activities. Citizens who are not subject to national service obligations may be called up individually as civilian

conscripts, except in cases of absolute physical incapacity, to be employed in cases of necessity in the administrative, economic, social and cultural services. The Committee also notes that, in its report dated April 1989 on the application of the International Covenant on Civil and Political Rights, the Government states that conscripts who are not placed in the armed forces are assigned to development units to participate in projects that form part of the national development plans.

The Committee once again draws the Government's attention to Article 2, paragraph 2(a), of the Convention, under which only military service limited to work of a purely military character is not included in the scope of the Convention. Work exacted from recruits within the framework of national service, including work related to the development of the country, is not of such purely military character. Furthermore, Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105), which has also been ratified by Tunisia, specifically prohibits the use of compulsory labour for purposes of economic development. The Committee refers in this connection to paragraphs 24-33 and 49-62 of its 1979 General Survey on the Abolition of Forced Labour in which it examined the obligations following from the Conventions in this respect and described the problems arising from the use of recruits for non-military purposes. The Committee requests the Government to indicate all measures that have been taken or are contemplated to ensure the observance of the Convention in this respect.

Yugoslavia (ratification: 1933)

The Committee has noted the comments submitted by the Union of Independent Trade Unions of Kosovo on 5 February 1991, alleging violation of Conventions Nos. 29, 87, 98 and 111. As far as the application of the Forced Labour Convention, 1930 (No. 29) is concerned, the Committee notes that the elements of information submitted do not appear to have a bearing on the observance of the specific requirements of the Convention.

Zaire (ratification: 1960)

With reference to its previous comments, the Committee notes from the information supplied by the Government in its report that efforts to bring the legislation into line with the Convention are being pursued.

1. The Committee referred previously to sections 18-21 of Legislative Ordinance No. 71-087 of 14 September 1971 on minimum personal contributions, which provides for the imprisonment with compulsory labour of tax defaulters by decision of the chief of the local community or the area commissioner, as a means of recovering the minimum personal contribution. The Committee noted that a draft Ordinance to repeal these provisions and replace them with provisions allowing defaulting taxpayers to choose the performance of work selected by the competent local authority and remunerated in

accordance with the legislation on minimum wages, was to be enacted. This draft also provided for the repeal of Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in native districts. The Committee notes that, in its report, the Government repeats its previous indications that it will transmit the new legislation as soon as it has been enacted, and trusts that the Government will shortly be able to report that the new provisions have been adopted and that it will provide a copy of them.

2. The Committee also drew attention to the provisions of Act No. 76-011 of 21 May 1976 concerning national development efforts, which oblige, under penalty of penal sanctions, every able-bodied adult person who is a national of Zaire and who is not already considered to be making his contribution by reason of his employment (political representatives, wage earners and apprentices, public servants, tradesmen, members of the liberal professions, the clergy, students and pupils), to carry out agricultural work and other development work laid down by the Government. It also noted the measures taken under Act No. 76-011 as laid down in Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976. The Committee hopes that the amendments now being prepared will shortly be adopted in order to bring the legislation in question into harmony with the provisions of the Convention, and that the Government will report the amendments that are adopted.

3. In its previous comments, the Committee stressed the need to include a provision in the national legislation providing for penal sanctions to be imposed on persons who illegally exact forced or compulsory labour, in accordance with Article 25 of the Convention. The Committee noted the Government's indications that it was planned to insert such a provision into the draft of the revised Labour Code. The Committee notes from the information provided by the Government in its report that the National Labour Council has completed its work on the revision of the Labour Code and that the draft provides for sanctions to be imposed on persons who infringe the provisions prohibiting the exaction of work from any person under threat of any penalty whatsoever. The Committee hopes that the Government will be able to transmit the text of the new Code in the near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Antigua and Barbuda, Belgium, Benin, Burkina Faso, Fiji, France, Greece, Guyana, Honduras, India, Indonesia, Ireland, Japan, Kenya, Liberia, Mauritania, Morocco, Myanmar, Nigeria, Pakistan, Romania, Solomon Islands, Sri Lanka, Swaziland, Syrian Arab Republic, United Republic of Tanzania, Thailand, Tunisia, Uganda, Republic of Yemen, Zaire.

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

Bolivia (ratification: 1973)

See under Convention No. 1.

Morocco (ratification: 1974)

The Committee notes the Government's report and its statement repeating that account will be taken of the Committee's comments during the redrafting of the part of the Labour Code which includes regulations. The Government emphasises that the implementation of this part is dependent upon the adoption of the draft Labour Code, which has already been approved by the Council of Ministers.

The Committee trusts that this part of the Code will be adopted in the near future and that it will give full effect to the provisions of the Convention, in accordance with the Committee's pending comments which are being reiterated in a direct request.

* * *

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

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

France (ratification: 1939)

Article 12, paragraph 3, of the Convention. In its previous comments, the Committee drew the Government's attention to the need to provide the supplementary allowance of the National Solidarity Fund (FNS) (section L.815-2 of the Social Security Code) to nationals of all member States that are bound by the Convention and not only to French nationals and to foreigners who are nationals of countries which have signed an international reciprocity agreement (as set out in section L.815-5 of the Code).

In its reply, the Government indicates once again that the above allowance is not a social security benefit, but an assistance-type benefit. It adds that the FNS allowance, in contrast with social security benefits, is recoverable from the personal estate of the beneficiary, as are allowances that are paid as social assistance. According to the Government, in French law this feature marks the difference between social security benefits and assistance benefits. For assistance benefits, national solidarity only temporarily substitutes family solidarity, which is intended to assist family members in need. The Government also considers that the fact that the grant of this allowance is a legally protected right does not mean that it is a social security benefit. Indeed, entitlement is "legally protected" even for social assistance, except for a few marginal discretionary or isolated allowances.

Although it notes this information, the Committee is bound to refer to its previous comments on the nature of this allowance. It points out in particular that the supplementary allowance of the FNS is payable to beneficiaries as of right, without any discretionary assessment of needs, which is a characteristic of an assistance benefit. In this connection, the possibility of recovering the amount of the supplementary allowance in certain cases from the personal estate of the beneficiary cannot be considered a determining factor since it is not a consequence of the assessment of resources.

The Committee however notes with interest the Government's statement that it is examining the possibility of applying equality of treatment as regards the award of the FNS allowance on French territory to foreigners who, although not covered by European Community regulations or bilateral reciprocity agreements in this respect, satisfy certain conditions concerning their length of residence on the national territory. Ministerial consultations have been commenced on this matter, although their outcome is not yet known. In this context, the Committee also notes with interest the ruling of the Constitutional Council, No. 89-269 DC of 22 January 1990, which declares unconstitutional section 24 of the Act containing various provisions respecting social security and health, which extended the grant of the supplementary allowance to nationals of the European Communities, while maintaining the requirement of the existence of a reciprocity agreement for nationals of other States. In the preamble to its ruling, the Constitutional Council considered that the exclusion of foreigners who are regularly residents in France from the grant of the supplementary allowance, in cases when they cannot avail themselves of international commitments or regulations in this matter, disregards the constitutional principle of equality.

The Committee hopes that the inter-ministerial consultations that have been commenced in this respect will result in the extension in law and practice of the grant of the supplementary allowance of the FNS to nationals of all member States that are bound by the Convention and not only to nationals of countries that have signed an international reciprocity agreement, in accordance with Article 12, paragraph 3, of the Convention. (See also under Convention No. 118, Article 3, paragraph 1, branch (d) (invalidity benefit).)

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

* * *

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

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 1991.]

* * *

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

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

France (ratification: 1939)

See under Convention No. 35.

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

* * *

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

Convention No. 38: Invalidity 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 1991.]

* * *

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

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

Central African Republic (ratification: 1969)

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

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

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

* * *

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

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

Bahamas (ratification: 1976)

The Committee notes with regret that for the third consecutive time the Government's report contains no reply to previous comments. It must therefore repeat its previous observation 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.

Greece (ratification: 1952)

In reply to the Committee's previous comments, the Government again indicates that the question of bringing section 40 of the Regulations on Occupational Diseases of the Social Security Institute (IKA) of 16 January 1979 into conformity with the Convention will shortly be referred to a special committee for examination. The Committee recalls that the Government has been stating that this examination is to take place for several years. Accordingly, it must again express the hope that the results of the examination will enable the lists of occupational diseases given in Ministerial Orders No. 416/1759, of 16 January 1979, and No. 416/1862 of 27 December 1979 of the Minister of Social Affairs to be completed in the near future so as to take into account the following points, in accordance with Article 2 of the Convention:

- (a) Pathological manifestations resulting from poisoning by lead (section No. 1) (for example: no mention is made of gastritis, gastric ulcers, a number of liver disorders, etc.), poisoning by mercury (section No. 2) (for example: no mention is made of acute bronchitis, certain psychological disorders, dermatitis, etc.), and poisoning by arsenic (sections Nos. 15 and 16) (for example: no mention is made of occupational cancer, etc.) are listed restrictively whereas the schedule to the Convention is of a general nature and covers all poisoning by these substances.
- (b) The activities liable to cause anthrax infection (section No. 25) should also include "loading and unloading or transport of merchandise", as does the Convention.
- (c) Unlike the Convention, the lists of occupational diseases do not appear to contain a section on primary epitheliomatous cancer of the skin and the activities that may lead to it.

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

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. It notes however from the Government's report that technical assistance has been received from the International Labour Office. The Committee hopes therefore 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.

The Committee would also hope that 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) will be included in the list of occupational diseases.

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

United Kingdom (ratification: 1936)

In the comments it has been making for many years, the Committee has expressed the hope that the list of occupational diseases in the national legislation will be supplemented so as to conform to the Convention with regard to poisoning by the halogen derivatives of hydrocarbons of the aliphatic series, disorders due to ionising radiation and anthrax infection. In this connection, the Committee notes that the new list of prescribed diseases in schedule 1 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 (No. 967), as amended, does not contain the necessary modifications to ensure that full effect is given to the Convention. It must therefore draw the Government's attention to the following points:

- (a) In reply to the Committee's previous comment that in the list of occupational diseases a number of disorders caused by electromagnetic radiation or ionising particles were enumerated restrictively, whereas the schedule to the Convention covers all

pathological manifestations due to radium and other radioactive substances and to X-rays, the Government states that the Industrial Injuries Advisory Council concluded, in December 1986, that there was insufficient evidence of the need to add any further cancers caused by ionising radiation to the prescribed list. While noting this information, the Committee must point out that the Convention is deliberately worded in very general terms so as to cover all the pathological manifestations caused by the substances or agents listed in the schedule to the Convention when they affect workers engaged in the trades, industries or processes listed in the same schedule. By listing certain symptoms and pathological manifestations restrictively the legislation introduces a more limited system of coverage than the one provided for in the Convention which is drawn up in such a way as to ensure compensation for all disorders, even atypical or new ones, which might occur as the result of poisoning by or the action of an agent, as it deprives the workers concerned of the benefit of the presumption of the occupational origin of the disease. The Committee also recalls that the item concerning disorders due to ionising radiations in the list of prescribed diseases remains unchanged in relation to the 1959 list and does not appear to permit the compensation as occupational diseases of certain pathological manifestations such as, as was already pointed out in 1971, bronchogenic carcinoma of miners of radioactive ores or workers exposed to radon, lesions of the eye other than cataract, such as iritis and keratitis due to ionising radiation, or lesions of internal organs (in particular the thyroid) due to the action of radio-isotopes.

- (b) The Government indicates in its report that four diseases caused by the halogen derivatives of hydrocarbons of the aliphatic series have been added to the above list of diseases (items Nos. C.26, C.27, C.28, C.29). While noting this information with interest, the Committee observes that, despite this addition, the list of occupational diseases still covers only certain halogen derivatives of hydrocarbons of the aliphatic series whereas the Convention is drafted in general terms so as to cover poisoning by all the halogen derivatives of hydrocarbons of the aliphatic series. Furthermore, the new items - C.26 to C.29 - added to the list of occupational diseases in 1988 give a restrictive enumeration of the diseases caused by the substances mentioned, unlike the Convention (see point (a) above).
- (c) With regard to anthrax infection, the Government states that the Industrial Injuries Advisory Council does not consider that the present wording of the activities that may cause this infection, i.e.: "contact with animals infected with anthrax or the handling (including the loading, unloading or transport) of animal products or residue" is inadequate. The Committee can only stress once again that, by including also the "loading, unloading or transport of merchandise", the Convention aims to establish the presumption of occupational origin of the disease to the benefit of workers engaged in these activities, so as to protect workers who have to handle merchandise of such a varied nature that it would be difficult, if not impossible, to prove

that the merchandise handled has been in contact with infected animals or parts of animals.

The Committee none the less notes the Government's statement that the Industrial Injuries Advisory Council continues to keep the principles of Convention No. 42 at the forefront of its mind. It therefore hopes that the Government will be able to re-examine the matter in the light of its comments and will be able to take the necessary measures to supplement, in accordance with the Convention, the national list of occupational diseases in respect of the above-mentioned points. It asks the Government to provide detailed information on progress made in this respect.

* * *

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

Convention No. 44: Unemployment Provision, 1934

Djibouti (ratification: 1978)

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

The Committee notes the Government's statement to the effect that the Government of the Republic of Djibouti is envisaging denouncing the Convention since neither the available financial resources nor the economic situation makes it possible to implement the Convention. The Committee wishes to bring to the Government's attention the fact that, until the denunciation effectively takes place, Djibouti continues to be bound by the provisions of the Convention.

Peru (ratification: 1962)

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

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

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

* * *

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

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

Requests regarding certain points are being addressed directly to the following States: Angola, Malta.

Convention No. 50: Recruiting of Indigenous Workers, 1936

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

Convention No. 52: Holidays with Pay, 1936

Byelorussian SSR (ratification: 1956)

Article 2, paragraph 1, and Article 4 of the Convention. The Committee notes the Government's statement that a law of the USSR was being drawn up concerning holidays for manual and non-manual workers, and that annual paid leave has meanwhile been further increased. The Committee hopes that legislation in the Byelorussian SSR will soon be brought into line with that of other Republics of the Union where, in conformity with the Convention, a holiday of at least six working days must be taken not later than the year after the entitlement arises.

Central African Republic (ratification: 1964)

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 section 129, second paragraph, of the Labour Code provides that the length of service entitling workers to holiday can be of up to 24 or 30 months in the case of an individual contract or a collective agreement, whereas Article 2 of the Convention lays down the right to an annual holiday with pay of at least six working days after one year of continuous service. The Committee 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. It trusts that the draft - which was updated in 1988 -

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 78th Session.]

Chad (ratification: 1961)

In a direct request, the Committee is again referring to certain questions under Articles 2(1) and 7 of the Convention, which have been the subject of its comments for several years. It hopes the Government will soon be able to indicate that progress has been made.

Côte d'Ivoire (ratification: 1961)

Articles 2 and 4 of the Convention. In comments it has been addressing to the Government since 1968, the Committee has pointed to section 108, subsection 2, of the Labour Code, under which collective agreements or individual employment contracts may provide for a qualifying period of between one year to 30 months of actual service for entitlement to holiday. It has pointed out that this is not consistent with the provisions of the Convention, which specify that any agreement to relinquish the right, after one year of continuous service, to an annual holiday with pay of at least six working days or to forego such a holiday, should be void. The Committee noted with interest that legislation had been drafted to abolish the above subsection. However, it now notes that the Government's report, unfortunately, contains no new information on this matter.

The Committee again expresses the hope that appropriate measures will be taken to ensure that full effect is given to the Convention and that the Government will provide full particulars.

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

Cuba (ratification: 1953)

In previous observations, the Committee has commented that section 98 of the Labour Code of 1979 permits the State Labour and Social Security Committee to authorise, with the agreement of the workers, the replacement of holidays by cash in a number of branches or activities or for reasons of production or services. This is in conflict with Article 4 of the Convention, under which any agreement to relinquish the right to an annual holiday should be void.

The Committee notes from the Government's report that regulations on working time and holidays are being drafted, that they will take into account the Committee's comments, and that the Government will advise the Committee as soon as they have been approved.

The Committee hopes that the Government will soon take the measures necessary and that it will supply full particulars.

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

Morocco (ratification: 1956)

Article 2(c) of the Convention. Since 1967, the Government has been indicating its intention to adopt provisions ensuring that the accumulation of holidays by the staff of industrial establishments which is permitted by section 16 of the Dahir of 9 January 1946 does not in effect reduce the annual holiday taken below six working days. In its comments, the Committee has pointed to the Convention's requirements in this respect; and in information given to the Conference in 1989, the Government indicated that steps were being taken towards Parliament's early examination of a draft Labour Code which would take account of the Committee's comments. In its latest report, the Government states that the Code has not yet been promulgated and that the Minister has recommenced the procedure for its adoption.

The Committee once more expresses the hope that the necessary measures will be taken - whether through the adoption of the new Labour Code or otherwise - to ensure the application of the Convention, and that the Government will supply full information.

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

Myanmar (ratification: 1954)

Further to its earlier observations, the Committee notes that the Government now envisages a review of legislation relating to the Convention. The Committee's outstanding comments concern the following difficulties:

Article 1 of the Convention. The Leave and Holidays Act, 1951, does not apply to all undertakings covered by the Convention - for example, small establishments exempted from the Factories

Act; shops and offices in places to which the Shops and Offices Act has not been extended; building and public works undertakings; road transport undertakings.

Article 2(2). Workers between 15 and 16 years of age are only allowed a holiday of ten days (section 4(1) of the Act), whereas under the Convention, every person under 16 years of age after one year of continuous service should be entitled to an annual holiday with pay of at least 12 working days.

Article 4. The 1951 Act (section 4(3)) allows agreements between employer and employee to accumulate earned leave, whereas under the Convention any agreement to forgo or to relinquish the right to the annual holiday with pay laid down in the Convention (i.e. at least six working days, or, in the case of persons under 16 years of age, at least 12 working days) must be void.

The Committee hopes that the Government's review of the legislation will lead to the full application of the Convention in the very near future, and that the Government will supply details.

[The Government is asked to report in detail for the period ending 30 June 1992.]

Panama (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 2 of the Convention. The Committee notes that no progress has been achieved in giving full effect to this Article of the Convention. It recalls that the accumulation of holidays authorised under section 59 of the Labour Code may not be contrary to the provisions of the Convention, so long as a portion of the holiday including at least six working days is taken each year. The Committee trusts that the Government will re-examine the situation and will take the necessary measures to bring the national legislation into conformity with the Convention on this point.

Article 3. The Committee notes with interest that a draft decree has been prepared to supplement section 54 of the Labour Code with a provision that expressly provides for the obligation to include in remuneration payable for paid annual holidays the equivalent in cash of any remuneration in kind. The Committee hopes that this draft text will be adopted in the near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bulgaria, Chad, Comoros, Lebanon, Mexico, New Zealand, USSR.

Convention No. 53: Officers' Competency Certificates, 1936

Requests regarding certain points are being addressed directly to the following States: Brazil, Germany, Ireland.

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

Liberia (ratification: 1960)

The Committee notes that the Government's report has not been received. It also notes the information provided by the Government to the Conference Committee in June 1990, in particular the difficulties the Government had had in replying to the observations of the Committee of Experts within the time-limit set. According to the information provided, a new Labour Code had been adopted. It noted the assurances of the Government representative that the new Code would be transmitted to the competent bodies of the ILO in the very near future.

1. The Committee hopes that the new Labour Code would bring 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). It requests the Government to supply a copy of the Labour Code with its next report.

2. The Committee also noted in its previous comments that section 9.1, Chapter 9 of the draft Labour Code excluded 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 excluded 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 in the new Labour Code, consideration is given to the above-mentioned comments.

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

Panama (ratification: 1971)

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

The Committee notes from the Government's report, as well as from the information supplied to the Conference Committee in 1988, that the draft maritime labour legislation to which the Government has been referring since 1982 has still not been adopted.

This draft legislation contains provisions corresponding to the following Articles of the Convention: Article 2 (liability of the shipowner in respect of sickness and injury occurring between the dates specified in the articles of agreement for reporting for duty and the termination of the engagement); Article 3(b) (liability of the shipowner to provide board and lodging); Article 7 (liability of the shipowner to defray burial expenses in case of death occurring on board or on shore); and Article 8 (liability of the shipowner to safeguard property left on board by sick, injured or deceased persons). The Committee trusts that legislation giving full effect to the above-mentioned Articles of the Convention will soon be adopted and requests the Government to report any progress made in this connection.

Further to its previous comments the Committee notes the statement of the Government that Executive Decree No. 56 of 8 October 1976 sets out the regulations under Act No. 39 of 8 July 1976, as regards the inspection measures required on ships flying the Panamanian flag.

The Committee reiterates its hope that the Government would provide in its next report the information concerning the implementation and results of the inspection of vessels flying the Panamanian flag and all other statistical information available requested by 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.

Peru (ratification: 1962)

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

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

the regulations respecting harbour masters' offices and the merchant marine will again be revised by the Permanent Committee.

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

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

Tunisia (ratification: 1970)

In reply to the Committee's previous comments, the Government indicates that a Bill to amend sections 93, 95 and 110 of the Maritime Labour Code in order to bring them into conformity with the requirements of the Conventions ratified by Tunisia, and particularly Convention No. 55, has been prepared by the Ministry of Transport, with the participation of the representatives of shipowners and seafarers, and that it has been transmitted to the competent authorities for its adoption. The Committee notes this information. It once again hopes that this Bill will be adopted in the very near future and that it will give full effect to Article 4 (medical care) and Article 5 (payment of wages in the event of sickness (in conjunction with Article 11 of the Convention)). It requests the Government to supply information in its next report on any progress achieved in this respect.

[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: Djibouti, United States.

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

Panama (ratification: 1971)

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

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

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

Peru (ratification: 1962)

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 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.

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

* * *

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

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

Liberia (ratification: 1960)

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

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

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

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

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

Seychelles (ratification: 1978)

Further to its previous comments, the Committee notes with satisfaction the adoption of the Regulations issued under the Employment Act, No. 22 of 1985, section 20 of which prohibits the employment of persons under 15 years of age, in accordance with the Convention.

* * *

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

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 third 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.

* * *

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

Convention No. 62: Safety Provisions (Building), 1937**Central African Republic (ratification: 1964)**

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

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 indicated 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 noted the Government's statement in its report received in June 1988 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 indicated 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 Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1963)

Article 6 of the Convention. The Committee draws the Government's attention to the fact that, by virtue of this Article, all Members that have ratified the Convention must communicate to the International Labour Office the statistical information on the number and classification of accidents sustained by persons occupied in the building sector. It notes that the Government has not provided this type of information since 1967. The Government indicates in its report that the statistical information required is not at present available and will be transmitted to the ILO in the near future. The Committee would be grateful if the Government would provide this information in its next report.

Article 13, paragraph 2. The Committee refers to the comments it has been making for a number of years on the need to give effect to the provision of the Convention that specifies a minimum age to be fixed by the national legislation for the operation of hoisting machine or for giving signals to the operator. It notes from the Government's report that the draft Labour Code has not yet been adopted by the competent authority with the result that the Order drawn up during the direct contacts of 1979 to bring the national regulations into harmony with Article 13, paragraph 2, of the Convention has not yet been published. The Committee again expresses the hope that the Order in question will be adopted as soon as possible and that the Government will be able to provide a copy of it.

Convention No. 64: Contracts of Employment (Indigenous Workers), 1939

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

Convention No. 71: Seafarers' Pensions, 1946

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

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

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

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

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

Convention No. 77: Medical Examination of Young Persons (Industry), 1946**Dominican Republic (ratification: 1973)**

In comments made for a number of years, the Committee has drawn the Government's attention to the absence of legislation or specific regulations providing for the full application of 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).

In its report for the period ending 30 June 1980 the Government indicated that the Ministry of Labour had started to prepare a preliminary draft regulation under the chapter of the Labour Code concerning the work of young persons. In its report for 1985 it stated that the elaboration of a draft Code for minors was in progress.

In its latest reports, the Government continued to state its intention to give effect to the provisions of the Convention. With this view, it has adopted a Code for minors and a regulation under Book IV, Chapter 2, of the Labour Code, and indicated that the respective draft and preliminary draft were being evaluated by the persons responsible for labour questions. The Committee notes with regret that no progress has been made up to now.

The Committee again expresses the hope that the Government will make every possible effort so as not to delay the adoption of the necessary measures to give effect to the above-mentioned provision of the Convention. It also requests the Government to indicate the decisions taken under Article 1, paragraph 3 (definition of the line of division which separates industry from agriculture, commerce and other non-industrial occupations), and provide, when available, extracts of reports of the labour inspection services containing statistical data on the number and nature of violations recorded.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Djibouti, Iraq, Lebanon, Peru, Spain, Tunisia, 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, Djibouti, Iraq, Lebanon, Peru, Spain.

**Convention No. 79: Night Work of Young Persons
(Non-Industrial Occupations), 1946**

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

Convention No. 81: Labour Inspection, 1947

Central African Republic (ratification: 1964)

Article 11, paragraphs 1(b) and 2, of the Convention. Further to its previous observations, the Committee notes the information provided by a Government representative to the 77th Session of the Conference, as to the difficulty in reimbursing travelling expenses to labour inspectors due to restrictions imposed by the international monetary institutions. Inspectors had had transport difficulties, but now all provincial labour inspectors have been provided with vehicles. The Committee once again expresses the hope that the draft designed to ensure the allocation of an additional allowance in this respect will be adopted and that the Government will provide full information on this matter.

Articles 20 and 21. The Committee notes that measures have been taken to establish monthly and annual labour reports and as of 1991 a summary of labour inspection reports will be sent to the Office in conformity with the provisions of the Convention. It hopes that in future annual inspection reports containing detailed information on all the subjects listed in Article 21 will be published and transmitted to the Office within the time laid down in Article 20.

Iraq (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:

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 laid down in this Article of the Convention will be respected.

Ireland (ratification: 1951)

Articles 14 and 21(f) and (g) of the Convention. Further to its earlier comments, the Committee notes with interest that, under the Safety, Health and Welfare at Work Act, 1989, a new National Authority

for Occupational Safety and Health was established and that it expected to develop proposals for the notification of occupational accidents and diseases in relation to all work covered by the Act. The Committee hopes the next report will indicate how full effect is given to these provisions of the Convention.

Article 20 of the Convention. The Committee notes with interest that section 26 of the 1989 Act provides for the Authority to make a report on its activities to the Minister for laying before the legislature within six months of the end of each year. It trusts this will enable the Government to comply with the requirements of this Article as to publication and transmittal to the Office of the report.

Jordan (ratification: 1969)

Further to its previous observations, the Committee notes the discussion of this Convention in the Conference Committee in 1990: that Committee expressed the hope that the Government would be in a position to inform the ILO of changes in the national legislation before its next session.

The Committee notes that no information in this respect has been received by the ILO. It fully appreciates the efforts made by the Government and the difficulties experienced. Nevertheless, it would repeat its previous observation, which read as follows:

Article 12, paragraph 1(a), (b) and (c)(iv), of the Convention. The Committee regrets to note that no progress has yet been achieved in the adoption of the new draft 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.

Libyan Arab Jamahiriya (ratification: 1971)

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

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 trusts that annual inspection reports covering the whole national territory and containing information on the work of the labour inspection services, including statistics on the subjects listed under Article 21, will be published and transmitted to the International Labour Office within the time established by Article 20.

[The Government is asked to supply full particulars to the Conference at its 78th Session.]

Mauritania (ratification: 1963)

Article 3 of the Convention. In comments it has made for some years, the Committee has called for the separation of manpower offices from labour inspection offices in order that labour inspectors may perform their main duties more efficiently. The Committee now notes with satisfaction that a Ministry of Employment and Planning has been created and the manpower and labour inspection functions have been thereby separated. The Committee hopes the Government will include in future reports details of consequent changes in the organisation and working of the inspectorate.

Article 6. The Committee notes the Government's explanation that the draft statute of the labour inspectors and supervisors (to which it has been referring for a number of years and which remains to be adopted) continues to be studied with a view to making it more realistic in light of the current economic situation of the country. The Committee recalls that the draft is based on a study made by an ILO expert, taking account of the economic situation in the country as well as the provisions of the Convention and the need to ensure decent working conditions for inspectors. It hopes progress will be made towards adopting a new statute in this light, and that it will guarantee inspection staff stability of employment and independence from any change of government and improper external influences.

In a new direct request, the Committee has again referred to other questions related to Articles 10, 11, 16, 20 and 21.

Uganda (ratification: 1963)

Articles 20 and 21 of the Convention. Further to its previous observations, the Committee notes the information in the Government's most recent report, concerning publication of the annual report of the labour inspection services required by the Convention. The Committee has noted for many years that there has been no publication of the annual labour inspection report. The Government is now hopeful that progress will be made with the ILO's technical assistance. The Committee continues to hope that an up-to-date report of the inspection service's activities will soon be published, that it will contain the information required by the Convention and that henceforth such reports will be transmitted to the Office within the time established by the Convention.

Republic of Yemen (ratification: 1966)North Yemen

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:

Articles 19, 20 and 21 of the Convention. 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 27.7 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.

Zaire (ratification: 1968)

Further to its previous observation, the Committee notes the information provided by the Government that the delay in publishing the annual report of the General Labour Inspectorate is due mainly to delays at the regional level. The Committee hopes that - as the

Government anticipates - the necessary statistical information will be included in the next report on the application of the Convention and that all appropriate measures will be taken to ensure that inspection reports are regularly compiled and published in accordance with Articles 20 and 21 of the Convention.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France, Ghana, Grenada, Lebanon, Mauritania, Panama, Sierra Leone, Solomon Islands, Spain, Swaziland, Venezuela, Zaire.

Convention No. 84: Right of Association (Non-Metropolitan Territories), 1947

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)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Act No. 90-14 of 2 June 1990 respecting the procedures for exercising the right to organise and Act No. 90-11 of 21 April 1990 respecting labour relations, which put an end to the single trade union system and introduced the possibility of trade union pluralism. The Government indicates in its report that many independent organisations of workers and employers have been established since the adoption of these texts.

The Committee also notes the adoption of Act No. 90-02 of 6 February 1990 respecting the prevention and settlement of collective labour disputes and the exercise of the right to strike, which authorises strike action in both the public and private sectors.

The Committee is addressing a request for information concerning other points directly to the Government.

Antigua and Barbuda (ratification: 1983)

The Committee refers to its previous comments on the need to amend sections 19, 20 and 21 of the Industrial Courts Act, 1976, which can be applied in practice to place a general prohibition on the right to strike at the initiative of one party, as illustrated by the decision of the Committee on Freedom of Association in Case No. 1296.

The Committee notes that this question has been forwarded to the Cabinet for a re-examination of the provisions on the right to strike.

The Committee has acknowledged that the right to strike may be limited 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. In view of the fact that the Act provides that arbitration may be compulsory and can be invoked by only one of the parties, for these provisions to be in accordance with the Convention, the arbitration award would have to be accepted by both parties to the dispute and, failing agreement, the workers should still have the right to strike. With respect to the provisions allowing the grant of an injunction putting an end to a legal strike, the Committee recalls that such measures can only be justified in situations of acute national crisis, and then only for a limited period.

The Committee trusts that the Government will adopt the necessary measures to amend sections 19, 20 and 21 of the Industrial Courts Act, taking into account the above comments. It requests the Government to transmit to it rapidly the text of the above amendments and to keep it informed of any new development in this respect.

Argentina (ratification: 1960)

The Committee notes the Government's report.

In its previous comments, the Committee pointed out that various provisions of Act No. 23551 of 14 April 1988 on trade union associations and its implementing Decree No. 467/88 did not appear to be in conformity with the Convention:

- Section 25 of the Act provides that the trade union association which, in terms of the geographical area and the persons falling within its scope has, as dues-paying members, more than 20 per cent of the workers which it claims to represent during the six-month period preceding its request, shall be considered the most representative and therefore granted trade union status. Section 28 provides that where there already exists an organisation enjoying this trade union status, another trade union association may be granted such recognition for the purposes of undertaking action in the same area and activity or category only if the petitioning association has a "considerably higher" number of dues-paying members for a minimum continuous period of at least six months. Implementing Decree No. 467 of 1988, in section 21, qualifies the term "considerably higher" by laying down that the association claiming this trade union status should have at least 10 per cent more dues-paying members than the association which has already been granted this status. The Committee considered that this additional percentage seemed excessive.
- Section 29 of the Act provides that "a trade union at the enterprise level may be granted trade union status only when another first-level trade union and/or a union does not already operate within the geographical area or the area of activity or category covered", and section 30 establishes that "when a trade

union association which has been granted recognition has decided upon the form of the union, association or trade union covering a particular activity, and the petitioning association has adopted the form of a trade union covering a particular occupation, profession or category, such status may be granted if there are different trade union interests which justify special representation ... provided that the pre-existing trade union or union does not already include such workers within its scope of representation". The Committee considers that this type of provision could have the effect of restricting the right of workers to establish and join organisations of their own choosing (Article 2 of the Convention).

- By virtue of sections 38 and 39 of the Act, workers' trade union associations which have been granted trade union status enjoy a number of privileges such as the deduction of trade union dues and fiscal exemptions. In addition, the right to represent workers in the enterprise can only be exercised by members of those associations enjoying trade union status (section 41 of the Act) and only the representatives of these associations enjoy special protection (sections 48 and 52 of the Act). The Committee pointed out that where the legislation confers on the most representative unions certain privileges in connection with the defence of the occupational interests of their members, the granting of such privileges should not be made subject to such conditions as to influence unduly the choice of workers regarding the organisation to which they intend to belong.

With regard to sections 29 and 30 of the Act, the Government states that the scope of trade union activity set out in the legislation ("the defence of the interests of the workers"), whether or not trade union organisations enjoy trade union status, is sufficiently broad to cover their work within the terms of the Convention. The Government emphasises that, in accordance with section 23 of the Act, the mere fact of registration confers upon all trade union associations the acquisition of legal personality and the exercise of rights such as the right to petition and to represent the collective interests of an activity or category of workers, the right to set contributions or dues from their members, and to hold meetings or assemblies without needing to obtain prior authorisation. This list is only indicative and trade union organisations, being legal entities, by virtue of their legal personality can exercise rights and contract obligations with the result that they have a full field of activities irrespective of the supposed privileges that the granting of trade union status might endow upon certain associations. Sections 29 and 30 of the Act do not therefore diminish the right of workers to establish in full freedom, to join or leave organisations as set out in the provisions of Article 2 of the Convention. The aim is to avoid the fragmentation of the trade union movement, which could in itself be violation of the Convention.

The Committee considers that sections 29 and 30 of the Act have the effect, through granting trade union status by virtue of which exclusive rights are obtained as regards collective agreements and other important matters, of favouring trade union organisations that represent an area of activity in contrast with those representing

enterprises and professions, even in the event of the workers preferring to organise at the level of the enterprise or profession. The Committee considers that this situation is not in full conformity with Article 2 of the Convention.

As regards the privileges granted to organisations enjoying trade union status under sections 38 and 39, the Government states that they do not constitute a limitation on the principles of the Convention since the nature of the "holding agent" through which trade union contributions are deducted (section 38) simply serves as an administrative procedure to avoid the non-payment of such dues. This has no effect on the worker's willingness or not to join a trade union. With reference to the fiscal exemptions set out in section 39, the Government indicates that these measures have their parallel elsewhere in the law for trade unions that are merely registered: namely, in the exemption from taxation of the earnings of non-profit-making associations whose income is used for the purposes laid down in their constitutions.

The Committee considers that sections 38 and 39 grant important privileges to organisations which enjoy trade union status as compared with those that are only registered. These privileges may influence the workers' choice of organisation to which they wish to belong.

With regard to section 41, the Government points out that, in requiring that an organisation be affiliated to a body that enjoys trade union status so as to have the right to represent workers in an undertaking mentioned in section 40, section 41 sets out the functions and the precise powers accorded by law to these representatives. This provision is not therefore aimed at listing exclusions; indeed, a staff representative could belong to a body that was simply registered provided that no other body with trade union status existed for the activity or field in question. The Committee requests the Government to supply information on the effect given in practice to section 41 in the event that a trade union association representing the majority of workers, but which does not have trade union status, exists alongside an organisation that enjoys trade union status.

The Committee trusts once again that the Government will take the appropriate measures to ensure that the legislation is in complete conformity with the Convention.

The Committee is addressing a direct request to the Government concerning the criteria for eligibility for trade union office.

Bangladesh (ratification: 1972)

The Committee notes the Government's reports. It also notes the observations of the Bangladesh Workers' Federation (BWF) and of the Bangladesh Employers' Association (BEA).

For a number of years the Committee has raised the following points:

- the right of association of persons carrying out managerial and administrative functions;
- the right of association of public servants;
- restrictions on the range of persons who can hold office in trade unions;

- the extent of external supervision of the internal affairs of trade unions; and
- the "30 per cent" requirement for initial or continued registration as a trade union.

Managerial and administrative functions

The Committee has pointed out that section 2(b)(xxviii) of the Industrial Relations Ordinance, 1969 excludes from the definitions of "worker" and "workmen" persons who are employed in a managerial or administrative capacity or who exercise functions of a managerial or administrative nature. This has the consequence that such persons are denied the right of association which is set out in section 3(a) of the Ordinance. However, both the Government and the BEA have stated that such workers are covered by the definition of "employer" in section 2(b)(viii), whose right of association is protected by section 3(b) of the Ordinance. The Committee has pointed out, as it does in paragraph 131 of its 1983 General Survey, that forbidding such persons to join unions representing other workers may not be incompatible with the requirements of the Convention so long as they have the right to form and join their own organisations to defend their interests, and that the categories of managerial staff are not so "broadly defined that the organisations of other workers in the establishment or branch of activity are weakened by being deprived of a substantial proportion of their present or potential membership".

As in its previous observations, the BEA states that "if the supervisors and the supervised are allowed to jointly form trade unions then there will be no supervision and administration".

The Committee has repeatedly asked the Government and/or the BEA to provide details as to the numbers of workers affected by these exclusions, and as to the number and size of organisations which have been formed in order to represent the interests of such workers. In its report, the Government indicates that some 3 per cent of workers in the public sector are employed in a managerial or administrative capacity, but that no figures can be supplied in relation to the private sector. The Government has not provided any information in relation to the number or size of trade unions which have been established in order to represent the interests of managerial or administrative employees. In the continuing absence of any indication to the contrary, the Committee can only conclude that law and practice in Bangladesh in this regard are not in conformity with the guarantees provided by Article 2 of the Convention.

Right of association of public servants

The Committee has noted on several occasions that with certain limited exceptions, public servants are excluded from the scope of the Industrial Relations Ordinance. It is true that they are permitted to form and join associations for purposes of ventilating their grievances and promoting their interests - however, such associations are subject to certain constraints in relation to their activities which do not apply to other trade unions.

The Committee has repeatedly pointed out that these restrictions are not in conformity with the requirements of Articles 2 and 3 of the Convention, and has called upon the Government to introduce the changes necessary to bring the law and practice into full conformity with these provisions. In its report, the Government indicates that it has noted the observations of the Committee on this point, but it does not give any indication that it proposes to introduce the changes requested by the Committee. The Committee notes with regret this continued failure to give effect to the requirements of the Convention.

Restrictions upon the right to join or
to hold office in trade unions

For a number of years the Committee has been asking the Government to amend section 7A(1)(b) of the Industrial Relations Ordinance by permitting a "reasonable proportion" of the officers of a trade union to be persons who are not current or former employees in the trade or industry concerned. The Government has consistently stated that, as amended in 1985, this provision is in conformity with the Convention. The Committee remains of the view that it is not, and again asks the Government to introduce amendments to provide for greater flexibility in relation to office-holding in trade unions.

The Government indicates that section 3 of Act No. 22 of 1990 provides that a worker who is dismissed for misconduct shall not be entitled to be a member or officer of a trade union. The Government considers that this provision is desirable in the interests of healthy industrial relations. The BEA also considers that statutory provision providing for the association of dismissed workers "obsessed with retaliation will defeat the very purpose of collective bargaining". The Government has not supplied a copy of Act No. 22 of 1990. The Committee asks it to do so at the earliest opportunity. In the meantime the Committee would point out that whilst it has accepted that it may be permissible to exclude from office-holding persons who have been convicted of criminal offences which call into question the integrity of the person concerned and which are of such a character as to be prejudicial to the exercise of trade union office (1983 General Survey, paragraph 164), it considers that individuals should not be excluded from holding office simply because they have been dismissed from their employment for misconduct. A fortiori, the Committee considers that individuals should not be excluded from union membership simply because they have been dismissed for misconduct.

External supervision

The Committee had asked the Government to indicate whether the powers of the Registrar of Trade Unions to enter trade union premises, inspect documents, etc. under rule 10 of the Industrial Relations Rules 1977 is subject to judicial review. The Government has indicated that the powers of the Registrar under section 10 of the Industrial Relations Ordinance are subject to judicial review by virtue of section 10(3), but it has not provided any reply in relation to the 1977 rules. It is asked to provide such a response in its next report.

The 30 per cent requirement

For some years the Committee has been asking the Government to review sections 7(2) and 10(1)(g) of the Industrial Relations Ordinance in order to bring them into conformity with Article 2 of the Convention. The first of these provisions is to the effect that no trade union may be registered unless it has a minimum membership of 30 per cent of the total number of workers employed in the establishment or group of establishments in which it is formed. The second gives the Registrar of Trade Unions the power to cancel the registration of a union where its membership has fallen below the 30 per cent threshold.

In its report, the Government indicates that these provisions have achieved their purpose of preventing the growth of a multiplicity of trade unions, and that section 7(2) is used by the unions themselves to keep the number of unions in each establishment or group of establishments to a maximum of three. The Government further indicates that section 7(2) has been amended so as to facilitate the grouping of establishments controlled by the same employer. It has not provided the text, or the date, of this amendment.

The Committee has consistently taken the view that where the law prescribes a minimum number of members for purposes of establishing a trade union that number "ought to be limited to a reasonable figure so that the establishment of organisations is not hindered" (1983 General Survey, paragraph 123). It has also taken the view that a 30 per cent figure is excessive for these purposes (*ibid.*, paragraph 124). Accordingly, the Committee must again call upon the Government to introduce amendments to bring its law and practice relating to the registration of trade unions into conformity with what the Committee has always regarded as one of the most important principles enshrined in the Convention (*ibid.*, paragraph 120). It also asks the Government to supply the text of the recent amendments to section 7(2) of the Industrial Relations Ordinance.

Denial of the right to organise of workers in export processing zones

In its comments, the BWF states that section 11A of the Bangladesh Export Processing Zones Authority Act, 1980, denies workers in export processing zones the right to form and join trade unions. The Government confirms that this provision does indeed enable it to exempt a zone from the operation of all or part of the Industrial Relations Ordinance. It goes on to explain that employers in such zones are found to be paying wages and other benefits which are above the national average, and that accordingly "the Government does not consider it expedient to allow formation of trade unions for the time being". The Committee considers that this provision is not compatible with the guarantees provided by Articles 2 and 3 of the Convention and, in particular, with the right of all workers without distinction whatsoever to establish and join organisations of their own choosing, and it urges the Government to amend section 11A of the 1980 Act so as to bring it into conformity with the requirements of the Convention.

Denial of the right to organise of
certain groups of workers

The BWF states that the Government has introduced legislation to prevent the establishment of trade unions by employees of the Rural Electrification Board, the Civil Aviation Authority and the Jute Research Institute. It also alleges that the Government had "decided to outlaw" the Bangladesh Bank Security Printing Press Workers and Employees Union.

The Government has not commented on the allegations relating to the Rural Electrification Board, the Civil Aviation Authority and the Jute Research Institute. It does confirm, however, that the Industrial Relations Ordinance was amended in 1990 so as to exclude from its operation any person employed by the Security Printing Press. This press is owned by the Government, and is responsible for printing bank notes and minting currency. In view of its importance to national security it was considered necessary to place the press outside the scope of the Industrial Relations Ordinance. Once this had been done it followed that the registration of the Bangladesh Bank Security Printing Press Workers and Employees Union had to be cancelled.

The Committee must point out that the only groups of workers who may be denied the guarantees embodied in the Convention are those mentioned in Article 9 thereof - namely members of the armed forces and the police. The employees of the Security Printing Press do not fall into either of these categories. Accordingly, the Committee must call upon the Government to restore to workers employed by the Security Printing Press the rights guaranteed by the Convention. It also asks the Government to indicate whether it is true that workers employed by the Rural Electrification Board, the Civil Aviation Authority and the Jute Research Institute have been denied the right to form or join the unions of their choice.

The Committee asks the Government to reconsider the situation as a whole in the light of the above comments and to report any measures that are taken in order to bring its law and practice into conformity with the Convention.

[The Government is asked to supply full particulars to the Conference at its 78th Session.]

Belgium (ratification: 1951)

For several years, the Committee has been drawing the Government's attention to the need to take steps for the adoption by legislative means of objective, predetermined and detailed criteria to govern the rules for the access for workers' and employers' occupational organisations to the National Labour Council and to the various public and private sector committees in which binding collective agreements are formulated, in order to avoid any possibility of partiality or abuse in the choice of organisations authorised to sit on these bodies.

In its last report, the Government merely points out that representativity among organisations is not static, but is slow to change. It adds that division into too many competing organisations and corporatism tends to distort and even obstruct collective bargaining. It also states that legislative amendments can only be introduced with caution into a system which has been tried and tested, but that it is paying heed to these problems which affect both private and public sectors.

In addition, the Committee has been informed that no seats were assigned to the National Confederation of Executive Staff on the National Labour Council when it was renewed for four years on 15 December 1990, despite the fact that objective, predetermined and detailed criteria have not been adopted to govern the rules for access to the above Council.

The Committee must therefore remind the Government that to draw a distinction between the most representative unions and other unions is not incompatible with the right to organise if such a distinction is based on objective, predetermined and detailed criteria.

The Committee once again expresses the hope that the Government will indicate in its next report the measures taken or envisaged to bring its legislation into conformity with the Convention.

Bolivia (ratification: 1965)

The Committee recalls that its previous comments concerned the denial of the right to unionise of public servants (section 1 of the General Labour Act of 29 May 1939); the requirement of previous authorisation for the establishment of a trade union (section 99 of the Act and section 124 of the Decree issued thereunder, of 23 August 1943); the impossibility of setting up more than one union in an enterprise (section 103 of the Act); the wide powers of supervision of the labour inspectorate over the activities of trade unions (section 101 of the Act); the possibility of dissolving trade unions by administrative authority (section 129 of the Decree); and the excessive restrictions on the exercise of the right to strike.

Regarding this last point, the Committee recalled the need to reduce the majority that is currently required to call a strike, namely a minimum of three-quarters of the employees who are actually in service (section 114 of the General Labour Act of 1939 and section 159 of the Decree issued thereunder, No. 244 of 23 August 1943) and to fix it at a simple majority of the workers present in an enterprise and voting for the calling of a strike. The Committee also criticised the prohibition of strikes in all public services (section 118 of the Act), including banks and public markets (section 1(c) and (d) of Supreme Decree No. 1958 of 16 March 1950), the recourse to compulsory arbitration as a means of putting an end to a strike (section 113(c) of the Act) and the prohibition of general and solidarity strikes under penalty of six months' detention and six months' internal exile for trade union officers and one year's detention for the initiators of strikes, with a doubling of the sentences in the event of a repetition of the offence (sections 1 and 2 of the Legislative Decree of June 1951).

The Committee notes the information supplied by the Government in its report. The Committee notes in particular that, with ILO collaboration, a draft text for a new General Labour Act, which takes account of the Committee's comments has been prepared and will be submitted to Congress before 15 July 1991.

The Committee requests the Government to supply information in its next report on the progress made on the adoption of the draft text of the General Labour Act, which was formulated with ILO technical assistance to bring the legislation into conformity with the Convention. Taking into account the fact that it has been repeating its comments for many years, the Committee trusts that at its next session it will be able to note real progress as regards bringing the legislation into conformity with the Convention.

Furthermore, the Committee is addressing a direct request to the Government concerning restrictions on the right to elect trade union officers in full freedom.

[The Government is asked to supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Bulgaria (ratification: 1959)

With reference to its previous comments, the Committee notes with satisfaction from the Government's report the profound changes that have occurred. It notes that, according to the report, section 1 of the Constitution, which gave statutory effect to the guiding role of the Communist Party over mass organisations, was amended by Act No. 29 of 10 April 1990 which sets out the principle of political pluralism. It notes that under the terms of the Act of 6 March 1990 for the settlement of collective labour disputes, workers now have the right, in certain circumstances, to call strikes to defend their occupational interests. Furthermore, the National Constituent Assembly is due in the near future to adopt a new Constitution that will guarantee a democratic structure and pluralism, and a new Labour Code that conforms to the changes that have occurred in the country following the transformation from a centrally planned to a market economy system.

Furthermore, the Committee notes from the information supplied by the Government that there are now in the country organisations of workers and employers established on the principle of individual freedom of choice.

In these circumstances, the Committee hopes that the legislative texts that are being prepared will guarantee full observance of the rights and guarantees set out in the Convention and requests the Government to supply the text of the draft Labour Code so that it can examine it.

The Committee is addressing a direct request to the Government concerning the application of the Act of 6 March 1990 for the settlement of collective labour disputes.

Burkina Faso (ratification: 1960)

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

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).

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 once again the Government to provide information on the application, in practice, of these provisions, so that it can ascertain their scope.

Byelorussian SSR (ratification: 1956)

The Committee notes with satisfaction that section 6 of the Constitution of the Byelorussian Republic, which had set out the leading role of the Communist Party in economic and social life, has been amended and that, as amended, it lays down the principle of pluralism for political parties and public organisations.

The Committee also notes, from the Government's report, that in October 1990 the Congress of Trade Unions of the Byelorussian Republic was held, during which, among other instruments, the Charter of the new Federation of Byelorussian Trade Unions and a Bill on the rights and guarantees of trade unions were adopted.

The Committee requests the Government to supply copies of the above texts.

Finally, with reference to section 5 of the Order of the Supreme Soviet of the USSR on the coming into force of the USSR Act concerning trade unions of 10 December 1990 - which, as the Committee of Experts has indicated in its comments to the Government of the USSR, opens the way to trade union pluralism - the Committee notes that the supreme bodies of the Republics of the Union are recommended to align the legislation of their Republic with the provisions of the Act.

The Committee requests the Government to supply information on the measures that have been taken under this provision in order to eliminate any ambiguity that may persist in the legislation of the Republic as regards the possibility of a genuine system of trade union pluralism and to supply the relevant texts.

The Committee refers to the direct request it is addressing to the Government of the USSR on the Law of the Union of Soviet Socialist Republics on the settlement of collective labour conflicts, dated 9 October 1989.

Cameroon (ratification: 1962)

1. For several years the Committee has been drawing the Government's attention to section 2 of Law No. 68/LF/19 of 18 November 1968, which subjects the legal existence of a trade union or professional association of public servants to the prior approval of the Minister of Territorial Administration.

In its report, the Government points out that in the absence of a trade union organisation for public servants this provision is not applied and that, when public servants wish to organise a trade union, the texts in question will be revised and adapted to the Convention.

While noting this information, the Committee recalls that this provision of the legislation is not compatible with Article 2 of the Convention, by virtue of which workers, without distinction whatsoever, have the right to establish organisations of their own choosing without previous authorisation. The Committee therefore once again requests the Government, even in the absence of an organisation of public servants, to bring its legislation into conformity with this provision of the Convention.

2. With regard to the banning of foreign workers from holding trade union office (section 10(3) of the Labour Code), the Government once again indicates that this provision could be made more flexible within the framework of the current review of the Labour Code.

While noting this information, the Committee trusts that the revision of the Labour Code which the Government has been announcing for several years will be completed in the near future and that measures will be taken in order to permit foreign workers to hold trade union office, at least after a reasonable period of residence in the country.

3. For several years, the Committee has been pointing out that section 165(3) of the Labour Code and sections 2 and 3 of Decree No. 74/969 of 3 December 1974, which empower the authorities to requisition workers involved in a strike called in a vital sector of

economic, social or cultural activity, are such as to restrict the right of workers' organisations to call a strike to defend their occupational interests.

In its report, the Government points out that the right to strike is not prohibited in Cameroon and that a solution is found to many disputes during the procedures of conciliation and arbitration.

While noting this information, the Committee recalls that the right to strike is one of the essential means available to workers and their organisations for the promotion and defence of their economic and social interests. However, the principle whereby the right to strike may be limited or prohibited in the public service or in essential services would become meaningless if the legislation defined these services too broadly. Prohibitions should therefore be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

In these circumstances, the Committee once again requests the Government to take measures to confine the prohibition of the right to strike to the cases set out above. It also requests the Government to indicate in its next report the circumstances in which the authorities may have used the procedure of requisitioning.

Canada (ratification: 1972)

The Committee takes note of the information contained in the Federal Government's report which transmits the replies of provincial governments to its previous comments.

Articles 2 and 3 of the Convention. Newfoundland. In its previous comment, the Committee asked for the amendment of the provisions of the Public Service (Collective Bargaining) Act (No. 59) which relate to the designation of the employees of a bargaining unit who exercise essential functions. By conferring broad powers on the employer in this respect, this provision could impair the right of employees who are not designated as "essential" to resort to a strike in the event of a dispute and also make it difficult for the employees of the bargaining unit to have access to independent arbitration to settle their employment conditions.

It also asked the Government to review the provisions of Act No. 59 which exclude many workers from the definition of "employee", so as to allow these workers, without distinction whatsoever, to belong to a union of their own choosing.

The Committee notes with interest from the information provided by the Federal Government that, following the recommendations of the Legislation Review Committee set up by the Government of Newfoundland in 1986, a draft Bill was prepared which provides: (a) for the repeal of the Public Service (Collective Bargaining) Act and the application of the Labour Relations Act to employer-employee relations in the public services; (b) that the employees exercising essential functions will be designated jointly by the employer and the trade union concerned and that, in the event of the parties failing to agree, the final decision will be made by a joint body; and (c) where more than 33 per cent of the bargaining unit is agreed to be

essential, the trade union of the unit concerned can opt for independent arbitration. There has also been a recommendation concerning the issue of the exclusion of certain workers from the definition of "employee". According to the information supplied by the Government, the Bill should be submitted to the Newfoundland House of Assembly in February 1991.

The Committee asks the Government to indicate in its next report whether the Bill has been adopted and to provide a copy of the final text.

Alberta. 1. In its previous comment, the Committee asked the Government (a) to repeal the provisions of the Universities Act, as amended in 1981, which empower the Board of Governors to designate those academic staff members who may, by law, establish and join a professional association for the defence of their interests; and (b) to introduce an independent system of designation where the parties cannot reach agreement for the purpose of joining academic staff associations.

According to the information contained in the report of the Federal Government, the Government of Alberta has indicated that no changes are contemplated to the Universities Act.

The Committee therefore recalls once again, as did the Committee on Freedom of Association in relation to Case No. 1234 (241st Report), that, in order to ensure full observance of the right of academic staff to establish and join trade union organisations, in conformity with Article 2 of the Convention, the Government of Alberta should envisage introducing the above-mentioned amendments. In this connection, the Committee draws the Government's attention to Article 8(2) of the Convention which provides that the law of the land shall not be such as to impair the guarantees provided for in this Convention.

In these circumstances, the Committee urges the Government to provide information on the measures that are envisaged to ensure full observance of the Convention in this respect.

2. In its previous observation, the Committee asked the Government to report on the progress made, in the framework of the current review of the legislation, in giving effect to the recommendations of the Committee on Freedom of Association (Case No. 1247, 241st Report) and on the Committee's comments concerning the need to limit restrictions or prohibitions on the right to strike to essential services in the strict sense of the term and to public servants acting in their capacity as agents of the public authority.

The Committee takes note of the information transmitted by the Federal Government to the effect that the Government of Alberta is pursuing its examination of the provisions of the Public Service Employee Relations Act and the Labour Relations Code of 1988 which ban strikes, and that the comments of the Committee will be taken into account.

Recalling that the right to strike is one of the essential means available to workers' organisations to defend their occupational interests, the Committee trusts that the Federal Government in its next report will be able to provide information on the measures that have been taken or are envisaged by the Government of Alberta to limit

the restrictions on the right to strike, in conformity with the above-mentioned principles.

British Columbia. The Committee notes the conclusions reached by the Committee on Freedom of Association in Case No. 1547 (277th Report, February-March 1991). In particular, it notes that the exclusion of university teachers from the Industrial Relations Act (by virtue of section 80 of the University Act) results in their losing protection of their trade union rights which are accorded to other workers by the former Act.

Recalling that Article 2 of the Convention provides that workers without distinction whatsoever shall have the right to establish organisations of their own choosing, the Committee requests the Federal Government to invite the provincial government of British Columbia to consider repealing section 80 of the University Act, or to take any other appropriate measure so that university teachers, like any other workers, can enjoy the rights and guarantees set out in the Convention.

Central African Republic (ratification: 1960)

The Committee notes that the Government's report has not been received and, referring to its previous comments, it raises the following points:

1. Restructuring of the trade union movement

The Committee notes with interest that the "trade union embargo" has been lifted by the Act of 19 May 1988 respecting freedom of association and protection of the right to organise and that, according to the information received during the direct contacts mission in October 1989 and information originating from trade union sources, more than 50 first-level trade unions have received their registration certificate. The Committee has also been informed of the holding in July 1990 of the constituent congress of the trade union central organisation which permitted the restructuring of the trade union movement.

2. Fate of the property of the General Union of Central African Workers (UGTC)

The Committee requests the Government to supply information on the fate of the property, both real estate and liquid assets, of the UGTC which was dissolved by the Decree of 16 May 1981.

3. 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 also notes that a preliminary draft of a Bill, prepared by the ILO, was communicated by the direct contacts 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 amends the provisions requiring that persons be employed in the occupation as wage-earners 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 them but 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 are necessary to it.

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 1988 Act on freedom of association and protection of the right to organise in order to guarantee to 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 Committee hopes that the Government will endeavour to take the necessary action in the very near future.

Chad (ratification: 1960)

The Committee notes the Government's statements in its report and the comments of the National Labour Union of Chad (UNST) of 16 May 1989. It notes with interest the adoption of the new Constitution, which was enacted by Decree No. 1.036/PR/89 of 20 December 1989. The new Constitution guarantees in section 66 the right to organise and repeals in section 213 any previous provision which run counter to this right. According to the Government, this constitutional guarantee implicitly repeals the legislative texts referred to in the Committee's comments, namely: Ordinance No. 30 of 26 November 1975 suspending all strike action throughout the country; Ordinance No.

001 of 8 January 1976 prohibiting public and similar employees from exercising the right to organise; section 36(2) of the Labour and Social Welfare Code which prohibits all political activity by trade unions.

While noting these statements, the Committee observes, however, that this provision of the Constitution lays down that the right to organise shall be exercised in accordance with the law. In order to avoid any dispute of a legal nature, the Committee considers that it is necessary explicitly to repeal the above texts and welcomes the fact that, according to the comments submitted by the National Labour Union of Chad, a decision has been taken, following discussions with the Government, to repeal them. In these circumstances, the Committee requests the Government to supply copies of the texts repealing these instruments in its next report.

Furthermore, in this new context, the Committee requests the Government to indicate in its next report whether the draft Labour Code, formulated with the technical assistance of the ILO, and the draft Ordinance issuing the general conditions of service of the public service - sections 9 to 11 of which concern trade union rights - have been adopted and, if so, to supply copies of the texts published in the Official Journal.

As regards the question of the right to strike, the Committee notes that, according to the Government, this right has been re-established by the implicit repeal of the Ordinance of 1975. In this connection, the Committee is addressing a direct request to the Government concerning the provisions of the draft Labour Code respecting the procedure for the settlement of industrial disputes and the right to strike.

Colombia (ratification: 1976)

The Committee notes that it has not received the Government's report. However, it notes the long discussions which took place in the Conference Committee in June 1990, and Act No. 50, of 28 December 1990, amending the Substantive Labour Code.

I. The Committee notes with satisfaction that Act No. 50 has made a number of improvements to the previous provisions as regards freedom of association and collective bargaining, some of which had been the subject of comments by the Committee of Experts or the Committee on Freedom of Association:

- the machinery and formalities for the registration of trade union organisations have been accelerated (new sections 361 and following);
- it has been established that all trade union organisations, by the mere fact of their establishment and dating from their constituent assembly, enjoy legal personality (new section 364);
- the number of workers and trade union officers protected by trade union immunity (new section 406) and the scope of protection against interference with the right of association in trade unions (new section 354) has been approved;
- refusal to bargain with trade union organisations is illegal and punishable by fines (new section 354(c));

- it is forbidden to conclude collective agreements with non-unionised workers when the trade union or trade unions represent more than one-third of the workers in an enterprise (paragraph added to Chapter II, Title II, third part of the Code);
- official employees are permitted to establish mixed trade union organisations representing both official employees and public servants (new section 414, final paragraph).

II. Nevertheless, the Committee regrets that Act No. 50 has omitted to take into account certain comments that the Committee has been making for many years on the provisions of the legislation that are incompatible with the Convention. These comments concern the following points:

1. The establishment of workers' organisations
(Article 2 of the Convention)

- the requirement that 75 per cent of members are Colombian to establish a trade union (section 384 of the Labour Code), whereas it should be possible for workers to establish organisations of their own choosing without distinction on grounds such as nationality.

2. Interference in the internal administration
of trade unions (Article 3 of the Convention)

(a) Financing, administration and meetings

- the 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 the presence of authorities at general assemblies convened to vote upon the calling of a strike (new section 444, last paragraph, 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 has 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 for up to three years, with loss of trade union rights, of trade union officers who have been responsible for the dissolution of their unions (new section 380(3) of the 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)

- the 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);
- the prohibition on trade unions from holding meetings on political matters (section 12 of Resolution No. 4 of 1952);
- the prohibition on federations and confederations from calling a strike (section 417(a) 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 and new section 450(1)(a) 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 prohibition of strikes when they are called for the purpose of requiring the public authorities to take action in relation to matters which fall within their exclusive reserve (new section 450(1)(g));
- the power of the Minister of Labour to refer to a vote by all the workers in an enterprise the question of whether or not they wish to submit persistent differences of view to arbitration once a strike has been called (new section 448(3) of the Code);
- the power of the Minister to terminate a dispute lasting more than 60 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 (new section 448(4) of the Labour Code, 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, subject to administrative penalties (the suspension of the legal personality of trade unions) and sentences of imprisonment, in cases where a state of emergency has been declared (examples of the application of this prohibition are Decree No. 2004 of 1977 and Decrees Nos. 2200 and 2201 of October 1988);
- the possibility of dismissing 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 (new section 450(3) of the Labour Code).

The Committee had noted that a Bill was 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. The Committee requests the Government to supply information on any development in the situation in this connection.

Despite the progress that has been noted in this observation, the Committee emphasises that there remain many provisions that are still not in accordance with the Convention and requests the Government to take the necessary measures as soon as possible to bring the law and practice into full conformity with the Convention. The Committee reminds the Government that the ILO is at its disposal to provide assistance in the revision of the legislation.

[The Government is asked to supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Congo (ratification: 1960)

With reference to its previous observations, the Committee notes with interest the Government's statement in its report that the Congo is engaged in a process of democratic pluralism and that as such the national debate on the question of the trade union monopoly laid down in the legislation could open the way for a revision of the legislation along the lines of the comments made by the Committee.

In these circumstances, the Committee trusts that the provisions of the Labour Code (section 173) and Decree No. 73/167 MJT of 18 May 1973, which establish a system of trade union monopoly reinforced by a check-off system in favour of a single trade union organisation designated by name - the Congolese Trade Union Confederation - will be repealed in the near future in order to guarantee all workers the right to establish trade union organisations of their own choosing outside the existing trade union structure, in accordance with Article 2 of the Convention.

The Committee recalls that these provisions have been the subject of comments for several years and that, in previous reports, the Government indicated its intention of re-examining, among other matters, the question of the check-off system. The Committee requests the Government to supply detailed information in its next report on the measures that have been taken in this respect.

Costa Rica (ratification: 1960)

The Committee notes the Government's report, and the interim conclusions of the Committee on Freedom of Association at its May and November 1990 meetings following its examination of a complaint presented by the International Confederation of Free Trade Unions (Case No. 1483) concerning the violation of trade union rights in the law and practice respecting solidarist associations and their impact on trade union organisations and on the exercise of the rights set out in the Convention (see the 272nd and the 275th Reports of the Committee, paragraphs 389 to 444 and 240 to 322). Since the Committee

on Freedom of Association has not reached definitive conclusions concerning the above complaint and since, at the request of the Committee on Freedom of Association, the Government has agreed to a direct contacts mission, the Committee defers its examination of the questions raised concerning the solidarist movement, in order to be able to take account of the report of the above-mentioned mission and the subsequent conclusions of the Committee on Freedom of Association.

The Committee of Experts recalls that its previous comments related to:

- the right of trade union leaders to hold meetings on plantations;
- restrictions on the right to strike of trade unions of certain categories of workers.

1. The right of trade union leaders
to hold meetings on plantations

The Committee wishes to point out that on many occasions it has requested the adoption of a statutory provision guaranteeing the right of trade union leaders to hold meetings on plantations. On the basis of the Government's previous report, the Committee had requested the Government to indicate which legislative or administrative measures it was referring to when it indicated that the right to hold meetings on plantations had to be regulated. The Committee notes that, in its latest report (received in November 1990), the Government indicates that, within a period of approximately six months, a draft text of an integral reform of the Labour Code, in relation to which the ILO Office in Costa Rica has been collaborating, will be submitted to the Legislative Assembly in order to adapt the regulations in question to the principles of the ILO. Since the Government's reply is not sufficiently precise, the Committee requests it to include in the draft text of the integral reform of the Labour Code a specific provision guaranteeing the right of trade union leaders to hold meetings on plantations.

2. Right to strike of trade unions of
certain categories of workers

The Committee has pointed out on numerous occasions that section 369(a), (b), (d) and (e) of the Labour Code prohibits strikes in the public services, that is: those in which the work is performed by persons in the employment of the State or a state institution, if the work in question carried out by the State or a state institution is not of the same nature as work performed also by private enterprises carried on for profit; work performed by employees engaged in the sowing, cultivation, care or harvesting of agricultural or silvicultural products or in stock-raising, and in the treatment of produce in cases where it would deteriorate, and those declared by the State to fall into this category. The Committee repeated in its comments that any prohibition or restriction of strikes should be confined to the following three cases: strikes in essential services in the strict sense of the term, namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population; strikes by public servants acting in their capacity

as agents of the public authority; and strikes during an acute national crisis.

In its latest report, the Government once again states that the draft text of the integral reform of the Labour Code is intended to adapt the regulations governing these matters to ILO principles. Although the draft includes improvements, the Committee nevertheless considers, in relation to section 450(b) of the above draft, that transport and fuel enterprises and loading and unloading in airports and docks do not appear *prima facie* to constitute essential services in the strict sense of the term. The Committee therefore trusts that the committee set up to draft the integral reform of the new Labour Code will bring this point into full conformity with the Convention.

The Committee requests the Government to keep it informed of developments concerning the points raised in its observation and hopes that in the near future the legislation will be brought into full conformity with the principles set out in the Convention.

Côte d'Ivoire (ratification: 1960)

The Committee refers to its previous comments concerning the need to amend section 183 of the Labour Code, which gives the President of the Republic excessive powers to submit an industrial relations dispute to compulsory arbitration in order to bring an end to a strike. The Committee noted in its previous observations that a draft amendment to this section had been prepared which would restrict the powers in question to the cases in which it is admissible to end or prohibit a strike in accordance with the principles of freedom of association, namely: where the strike affects an essential service, the interruption of which would endanger the life, personal safety or health of the whole or part of the population; where the strike is called by public officials acting in their capacity as agents of the public authorities; or during an acute national crisis.

The Committee notes from the information supplied by the Government in its latest report that, once the amendment has been agreed to by the social partners and the permanent committee of the Labour Commission, it will be submitted to the Labour Commission within the framework of the general reform of the Labour Code that is currently under way.

In these circumstances, the Committee once again hopes that the new version of section 183 of the Labour Code, which is in conformity with the principles of freedom of association, will be adopted in the very near future and it requests the Government to indicate in its next report all progress made in this respect.

Cuba (ratification: 1952)

The Committee takes note of the Government's report and of the opinions of the Cuban Central Organisation of Workers (CTC) concerning the Committee's previous comments. The Committee also notes the comments of the International Confederation of Free Trade Unions (ICFTU) concerning the application of the Convention.

In its previous observation, the Committee noted that the Labour Code which came into force in 1985 continues to refer expressly to the CTC (particularly in section 15) and that Legislative Decree No. 67 of 19 April 1983 confers on this organisation the monopoly of representing the workers of the country before the State Committee on Labour and Social Security of the Ministry of Labour (section 61).

In its report, the Government repeats its statement that unity in the Cuban trade union movement is voluntary and a historical fact, and commenced prior to any law, and that the principles laid down in the Convention are embodied in the Cuban legislation through recognition of the historic facts of trade unionism in Cuba, which is renewed and strengthened through the holding of workers' congresses every five years. The Government adds that, to enable workers who so wish to create unions of their own choosing outside the existing trade union structure, section 13 of the Labour Code provides that "all workers, whether manual or intellectual, have the right to associate freely and to establish trade union organisations without prior authorisation".

For its part, the CTC states that 98 per cent of all workers in the country are members of both the existing national unions and the CTC, and that these organisations are financed exclusively from voluntary trade union contributions paid directly and in person by the workers. The CTC adds that the workers are satisfied with the way the CTC and the trade unions are run and continue to support the trade union movement.

The CTC describes the massive worker participation both before and at the 16th Congress of the CTC (January 1990) at which amendments to the statutes were adopted. Lastly, the CTC points out that if, in the future, the workers feel that they are no longer protected and represented by the CTC and their trade unions, there is nothing to prevent them from establishing unions of their own choosing.

The Committee takes note of these statements, particularly as regards the development and practices of the trade union movement in Cuba, and of the Government's previous statements on the important role played by the workers in the decision-making process at all levels, but must once again point out that the national legislation, in sections 15, 16 and 18 of the Labour Code refers by name to the "Central Organisation of Workers", in the singular form, which in itself constitutes recognition in the legislation of the single trade union system.

The Committee recalls that in its 1983 General Survey on Freedom of Association and Collective Bargaining, it indicates in paragraph 137 that, even in a case where a de facto monopoly exists as a consequence of all the workers having grouped together, legislation should not institutionalise this factual situation, for example, by designating the single central organisation by name. Even in a situation where, at some point in this history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

The Committee therefore once again requests the Government to indicate the measures that it envisages adopting to eliminate from the legislation the numerous references to a single trade union central

organisation, called the Central Organisation of Cuban Workers, and to enable the workers, if they so wish, to create trade unions of their own choosing, outside the existing trade union structure.

In addition, the International Confederation of Free Trade Unions (ICFTU) submitted comments in a communication dated 31 January 1991, concerning the application of the Convention with regard to trade union unity, the impossibility of creating independent trade union organisations, the selection of trade union officers by the Communist Party rather than by the workers, and the functions assigned to trade unions which are required to increase the productivity of workers and impose labour discipline. The Committee asks the Government to send its observations on these comments.

In view of the fact that the Government has not had time to reply to the ICFTU's comments, the Committee will examine these specific questions at its next meeting, when it has had time to examine the Government's observations.

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

Cyprus (ratification: 1966)

The Committee notes the information contained in the Government's report in reply to its previous comments.

1. Right of trade unions to elect their representatives in full freedom. With reference to the comments that it has been making since 1969, the Committee notes with interest that the Government submitted to the House of Representatives in June 1990 a draft Law amending the provisions of the Act respecting trade unions which lay down that only those who are currently employed in the occupation or trade concerned can be appointed or elected to hold office in trade unions or confederations. The Committee trusts that this draft Law will be adopted in the near future and requests the Government to supply a copy of it once it has been adopted.

2. Restrictions on the right to strike. With reference to its previous comments on sections 79A and 79B of the Defence Regulations, which allow the prohibition of strikes in services declared to be essential by the Council of Ministers, the Committee notes the Government's statement that recourse is made to these provisions only in cases of essential services within the meaning of the Cyprus Constitution and the Conventions of the ILO. The Government specifies that during the period covered by its report it did not invoke section 79B of the Defence Regulations, but that recourse was made to section 79A to end a strike by dockers in Cyprus.

The Committee recalls that this latter point was one of those involved in a complaint to the Committee on Freedom of Association (Case No. 1493, 268th Report, May-June 1986). The Committee emphasises once again, as did the Committee on Freedom of Association in Case No. 1493, that in its opinion the concept of essential services in the context of international labour Conventions covers only those whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee also notes with interest that, in a communication dated 14 March 1990, the Ministry of Labour announced that the Government of Cyprus was currently preparing new legislation to replace the Defence Regulations. The Committee trusts that new provisions conforming to the principles contained in the Convention will be adopted rapidly and requests the Government to keep it informed in its next report of any new developments in this respect and to supply the text of the new provisions when they are adopted.

Denmark (ratification: 1951)

The Committee takes note of the Government's reports.

1. With reference to its previous comments on the legislative prohibition of strikes in various sectors, the Committee notes from the information supplied by the Government in its latest report that negotiations were held in the spring of 1989 in the public and private sectors, including the fields in which the Government had intervened in 1987, in the belief that the strikes in question would have affected services it considered to be essential. While noting with interest that, according to the Government, it has not been necessary to call strikes in sectors in which the parties concluded collective agreements in 1989, the Committee once again requests the Government to indicate whether the prohibition on strikes has been raised in the sectors that it does not consider to be essential.

2. With reference to the questions relating to the Danish International Ships' Register, the Committee refers to its comments under Convention No. 98 and recalls that section 10 of Act No. 408 is not in conformity with Articles 2, 3 and 10 of the Convention.

Dominican Republic (ratification: 1956)

The Committee notes the Government's report, the numerous documents attached to it and the written information transmitted to the Conference Committee in June 1990. It also notes the comments made by the Independent Workers Confederation (CTI) dated 19 October 1990.

1. Trade union rights in free trade zones

With reference to its previous comment, the Committee notes that, according to the Government, the trade union rights of workers employed in free trade zones in the country are guaranteed by the Labour Code and other labour legislation. It also notes the Government's statement that there is no discrimination in law or practice as regards the establishment, registration and operation of trade union organisations on condition that the formalities set out in the law are respected. However, in its comments, the CTI indicates - as had already in previous comments the General Workers' Confederation (CGT) and the "Classistas" Confederation of Workers - that in practice trade union rights are not respected in view of the violence carried

out against workers, the dismissal of activists and the refusal to register organisations.

Referring to the documents transmitted by the Government, the Committee notes that between 1987 and 1989 three applications to register trade unions in free trade zones were made to the authorities, but that they were refused under section 349 of the Labour Code on the ground of non-conformity with the legal procedures. Furthermore, the Committee notes from the same sources that only five trade unions are registered in all the free trade zones in the country (which cover around 200 companies), in contrast with the registration of 84 trade unions, ten federations and one confederation, as reported by the Government, for the rest of the country during the years 1989-90.

The Committee notes the low rate of unionisation of the workers employed in free trade zones compared with the figures provided for the rest of the country and requests the Government to supply information on the reasons underlying this situation. It requests the Government in particular to supply information on the nature of the formalities which were not respected by trade unions whose applications for registration were refused and on the practical obstacles which may be encountered by workers in the establishment of organisations.

2. Workers in agricultural enterprises employing
no more than ten workers

As regards these workers, who are excluded from the Labour Code under the terms of section 265, the Government points out that this provision is not an obstacle to their unionisation since any occupational or trade union has to have at least 20 members to be legally constituted. The Government adds that, although this provision has not yet been amended, it is still its firm intention to repeal or amend it and that this should be done during the next session of the legislature. The Committee requests the Government to indicate any progress made in this regard.

3. Public officials and other workers and
technicians in the public sector

The Committee also notes that the situation as regards these workers has not changed. However, the Government states that measures are currently being examined in order to include personnel of this type within the scope of the Labour Code and to modify the provisions of Act No. 56 of 24 November 1965, Act No. 520 respecting non-profit making associations and Act No. 2059 of 22 July 1949, which contain important restrictions on the trade union rights which these workers should enjoy (prohibition of all trade union propaganda within public or municipal administrations and autonomous institutions of the State, and the administrative dissolution of the associations established by public officials).

4. Restrictions on the right to strike

The Committee once again notes the Government's statement that this question is also undergoing an examination which should result in amendment of the provisions of the Labour Code limiting this right (section 371 which bans strikes in services which are not essential in the strict sense of the term; section 373, and section 1(2) of Act No. 5915, which prohibit sympathy strikes; section 374 which lays down the obligation to obtain too high a majority in a strike vote; and section 376 respecting compulsory arbitration).

In addition, the Committee refers to the conclusions reached by the Committee on Freedom of Association in Case No. 1549 (277th Report, February-March 1991) and draws the Government's attention to the need to ensure that when strikes are limited or prohibited in essential services - namely, those whose interruption would endanger the life, personal safety or health of the whole or part of the population - the workers benefit from compensatory procedures for the settlement of disputes and the presentation of their demands.

In view of the above, the Committee is bound to point out that the serious divergencies between the national legislation and the provisions of the Convention have been the subject of its comments for many years without any change in the situation. The Committee therefore urges the Government to take measures in the near future to bring its legislation into conformity with the Convention and requests the Government to supply information in its next report on the progress made in these fields.

Ecuador (ratification: 1967)

The Committee takes note of the Government's report.

1. For many years, the Committee has been referring to the following provisions of the legislation which were incompatible with the requirements of Conventions Nos. 87 and 98:

- the prohibition placed on public servants from setting up trade unions (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 that members of the executive committee of a works council be Ecuadorian (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, paragraph 11, of the Code);
- the penalty of imprisonment laid down by Decree No. 105 of 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.

The Committee recalls that, at the Government's request, an advisory mission visited Ecuador (November-December 1989) to examine, inter alia, questions relating to the application of Conventions Nos. 87 and 98. According to the mission's 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 noted that, according to the Government's report, these drafts were to be submitted immediately to Congress with the support of the Executive and its recommendation that they be adopted.

In this connection, the Government indicates in its latest report that the drafts prepared jointly by the above mission and the Government were formally submitted to the Secretariat of the Congress, but that it cannot guarantee that they will become law. Furthermore, the Government states in its report that, at the initiative of the Minister of Labour and Human Resources, labour experts are discussing the enactment of a new law to cover the unionisation of public employees in general.

The Committee stresses the importance of the provisions of the legislation which are incompatible with the requirements of Conventions Nos. 87 and 98, and asks the Government to report on progress with regard to the drafts submitted to Congress and on the status of the work to draft legislation on the trade union rights of public employees. It hopes that in its next report the Government will be able to indicate that there has been progress in the application of these Conventions.

2. Furthermore, the Committee had noted the comments on the application of this Convention sent by the Ecuadorian Confederation of Class Organisations (CEDOC) in 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 bye-laws of incipient organisations and, according to the CEDOC, decisions concerning refusal to register are illegally delegated to officials of a lower category.

The Government indicates that the CEDOC's comments refer to the period of the previous Government and that it is therefore virtually impossible for the present Government to give a detailed account of the activities of the Office of Trade Union Organisations during that period. The Government denies that decisions concerning registration are illegally delegated to officials of a lower grade.

In view of the Government's statement, the Committee invites the CEDOC to indicate whether its comments on the application of the Convention which it made when the former Government was in power still apply and, if so, to specify actual cases of infringements of the Convention.

Egypt (ratification: 1957)

The Committee takes note of the information supplied by the Government in its report. It recalls that, for many years, its comments have addressed the following points:

1. The single trade union system laid down by law. The Committee has pointed out several times that sections 7, 13, 14, 16, 17, 31, 41, 52 and 65 of Act No. 35 of 1976, as amended, institutionalise a single trade union system, which is incompatible with Article 2 of the Convention. In its report, the Government indicates that the above provisions are being examined in co-operation with the Confederation of Egyptian Trade Unions in order to assess the extent to which they are in conformity with the Convention.

The Committee takes due note of this information but recalls that the provisions in question are at variance with Article 2 of the Convention, the principle of which is not intended as an expression of support either for trade union unity or trade union pluralism. However, trade union pluralism must remain possible in all cases and the legislation must safeguard the workers' freedom to set up, should they so wish, unions outside the established trade union structure. The Committee trusts that upon conclusion of the above-mentioned examination, the Government will adopt the necessary provisions to bring its legislation into conformity with the Convention and asks it to indicate the measures taken to this end in its next report.

2. The regulation of the internal management and activities of trade unions. With reference to its previous observation on the control exercised by the Confederation of Egyptian Trade Unions over the nomination and election procedure for trade union office (section 41 of Act No. 35 of 1976) and over the financial management of trade unions (section 62 of the same Act), the Committee notes that consultations are currently being held with the representatives of the Confederation and that the Government will shortly communicate its reply on this matter.

The Committee recalls that according to Article 3 of the Convention, the legislation should allow such matters to be dealt with in the constitutions and rules of trade unions at all levels, and asks the Government to communicate its reply on this matter promptly upon conclusion of the consultations.

3. Compulsory arbitration at the request of one party; broad powers of the Public Prosecutor to remove from office the executive committee of a trade union that has provoked work stoppages in non-essential public services. With reference to its previous comments on compulsory arbitration at the request of one party (sections 93-106 of the Labour Code, amended by Act No. 137 of 6 August 1981) and on the powers of the Public Prosecutor to remove from office the executive committee of a trade union that has provoked work stoppages or absenteeism in a public service (section 70(b) of Act No. 35 of 1976), the Committee observes that, according to the Government, the right to strike is guaranteed in the legislation and is organised in such a way as not to jeopardise national security, particularly in cases where a strike is harmful to the country's vital economic interests. The Government adds that, in its opinion, this is accepted

by the Committee and is consistent with the letter and spirit of the Convention.

With regard to the last point, the Committee must again refer the Government to the comments it has repeatedly made, and recall that the right to strike is one of the essential means available to workers and their organisations to promote and protect their economic and social interests (Article 10 of the Convention) and organise their activities (Article 3). Restrictions or limitations on the right to strike are only compatible with the Convention if they are confined to public servants acting in their capacity as agents of the public authority or to essential services in the strict sense of the term (and not public services in general) whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee therefore urges the Government to adopt provisions to bring its legislation into conformity with the Convention, and requests it to indicate the measures taken in this respect in its next report.

Ethiopia (ratification: 1963)

With reference to its previous comments, the Committee notes the information supplied by the Government in its last report and, in particular, that Ethiopia has now adopted a new economic policy based on a mixed system combining private and state property and co-operatives. This economic reform involves a re-examination of the new draft Labour Code, which is soon to be adopted by the national assembly (the National Shengo), since the committee that was set up to review it has now finished its work and submitted its opinion to the State Council.

While noting these developments, the Committee refers to its previous comments - particularly its detailed observation of 1989 - and points out that the discrepancies between the legislation and the Convention concern the following points, in relation to Proclamations Nos. 148, 222 and 223 and the Labour Proclamation of 1975:

- the organisation of workers and peasants into a single trade union system imposed by legislation;
- the obligation upon workers' trade unions and peasants' associations to disseminate among workers the Government's development plans and Marxist-Leninist theory, and to apply the political and economic directives of the higher authorities;
- the formulation of the rules of workers' organisations and peasants' associations by the higher trade union organisations referred to by name in the legislation;
- the right of affiliation to international organisations, which is reserved to the All-Ethiopia Trade Union;
- restrictions on the right to strike;
- the non-recognition of trade union rights for public servants and domestic personnel;
- the right of workers, including self-employed persons associated in co-operatives, and the right of employers to establish occupational organisations of their own choosing, including

organisations outside the existing structure, if they so wish, in accordance with the principles set out in the Convention.

The Committee trusts that a new Labour Code, giving effect to the Convention and taking account of the above comments and its previous observations, will be adopted rapidly. It requests the Government to transmit a copy of it as soon as it is adopted.

[The Government is asked to supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Finland (ratification: 1950)

With reference to its previous comments, the Committee notes with satisfaction the adoption of the Associations Act No. 503, as amended on 26 May 1989, which lays down that as from its coming into force on 1 January 1990 associations are only subject to suspension by judicial decision, in accordance with Article 4 of the Convention.

Gabon (ratification: 1960)

The Committee notes the Government's report has not been received. It nevertheless understands from information available to it that changes now under consideration should permit the development of trade union plurality.

The Committee requests the Government to provide information on any measures taken or envisaged to lift the legislative restrictions on genuine trade union plurality (sections 173 and 174 of the Labour Code; and Act No. 13/80 of 2 June 1980 creating a trade union solidarity tax in favour of COSYGA and its implementing Decree No. 9/000/882/PR/MFPTE).

The Committee also recalls that compulsory arbitration which legally excludes any resort to strike action (sections 239, 240, 245, 249 of the Labour Code) is a restriction on the right of workers to strike in defence of their occupational interests, even if - as the Government says - strikes do take place without any legal proceedings being taken against strikers; prohibitions or other restrictions on strikes may only be imposed in respect of public servants acting in their capacity as agents of the public authority or in essential services in the strict sense of the term.

The Committee therefore trusts the above-mentioned legislation will be amended in line with its comments and once again asks the Government to supply information on the measures taken to this end.

Germany (ratification: 1957)

The Committee notes the information supplied by the Government in its report in reply to the Committee's previous comments, and the conclusions and recommendations of the Committee on Freedom of Association in Case No. 1528 (277th Report, approved by the Governing Body at its 249th Session in February 1991).

The Committee recalls that its previous comments concerned the following points:

- denial of the right of access to the workplace for trade union officials who do not belong to an enterprise;
- requisitioning of employees in the postal service having the status of civil servants (Beamte), who do not act in a capacity as agents of the public authority, in order to replace striking postal workers having the status of state manual workers or employees (Angestellte);
- protest strikes.

1. Access to the workplace for trade union officials who do not belong to an enterprise. On this point, the Government refers to its previous comments and states, basically, that: Convention No. 87 does not impose such an obligation upon it and, even if such were the case, it would not be obliged to take action since the Committee itself only requires that trade union officials have access when necessary and this question is not a point of dispute between employers and workers.

The Committee recalls that it has been making comments for many years on this point, which was the subject of a discussion in the Committee on the Application of Standards at the International Labour Conference in 1985. It refers, in particular, to its observation of 1989 in which it described in detail the point of view of the German Confederation of Trade Unions (DGB) on this matter. It requests the Government to indicate in its next report the measures that have been taken to guarantee trade union officials, including those who do not belong to an enterprise, access to the workplace in an enterprise if they consider it necessary.

2. Requisitioning of civil servants (Beamte) to replace striking state employees and manual workers (Angestellte) in the public service. The Government states, in this connection, that the Federal Constitutional Court has not yet handed down its ruling on this matter and it prefers not to comment on the question until a ruling is issued.

The Committee recalls once again that, when national legislation prohibits or restricts strikes in the public service or in essential services, such restrictions become meaningless if the legislation defines the public service or essential services too broadly. Accordingly, any prohibition of strikes should be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee also refers to the decision of the Committee on Freedom of Association in Case No. 1528, in which that Committee ruled that teachers having the status of civil servants (Beamtete Lehrer) should be able to enjoy the right to strike.

The Committee therefore requests the Government:

- to indicate in its next report the measures that have been taken to guarantee that public servants who do not act in a capacity as agents of the public authority, and particularly teachers (Beamtete Lehrer) and postmen, counter clerks and telephonists in the postal service (Angestellte and Beamte) have the right to strike;

- to transmit to it the ruling of the Federal Constitutional Court when it has been handed down.

3. Protest strikes. The Government reiterates its previous comments on this point, which it summarises as follows:

- Convention No. 87 contains no provisions respecting the right to strike; assuming that such a right exists, it is restricted by Article 8(1);
- workers' organisations can influence the legislative process, challenge the constitutionality of laws and demonstrate, outside normal working hours, against the economic and social policy of the Government.

The Committee nevertheless recalls its previous comments on this point and emphasises that, while purely political strikes are not included in the rights guaranteed by the Convention, Article 3 of the latter provides that workers' organisations should have the right to organise their administration and activities and to formulate their programmes.

Ghana (ratification: 1967)

With reference to its previous comments, the Committee notes the information supplied by the Government in its reports. It emphasises, however, that the discrepancies between the legislation and the Convention arise from the need to amend the legislation which imposes a system of trade union unity at the confederation level and confers extensive powers on the Registrar as regards the registration of trade unions and the certification of negotiating representatives.

1. Extensive powers of the Registrar to oppose the registration of a trade union following any comment or objection concerning an application for registration (sections 11(3) and 12(1) of the Trade Unions Ordinance, 1941) contrary to Article 2 of the Convention.

The Government states in its report that the powers of the Registrar in this respect have been limited, since section 12(3) of the Ordinance provides for the right of appeal to the Supreme Court.

The Committee nonetheless considers, as it has explained to the Government since 1968, that sections 12(1)(d) and 11(3) do not clearly define the nature of the objections which can justify a refusal by the Registrar to register a trade union, which severely limits the scope of the Court to exercise any control.

2. The powers of the Registrar, in the context of the procedure for granting recognition for collective bargaining purposes, to refuse to appoint a trade union for any class of employees if there is already in force a certificate naming a negotiating representative for that class of employees or any part of that class (section 3(4) of the Industrial Relations Act, No. 299 of 1965), contrary to Article 3 of the Convention.

The Government indicates in its report that in Ghana all workers' organisations are affiliated to the national union of the sector concerned, which holds the collective bargaining certificate for all the component groups; the purpose of section 3(4) is to avoid a class of employees being covered by more than one bargaining certificate.

The Committee again recalls that, while it is not necessarily incompatible with Article 3 of the Convention to provide for a certificate to be issued to the majority trade union of a particular unit recognising it as the exclusive negotiator for that unit, the majority trade union should be determined according to pre-established and objective criteria. Furthermore, the legislation should provide that, if another trade union becomes the majority union, it should be entitled to be issued with a certificate designating it as the exclusive negotiating representative.

3. The absence of provisions on the right to form and join federations and confederations and the right to join international organisations of workers and employers, contrary to Article 5 of the Convention.

In its report, the Government mentions that section 1 of the Industrial Relations Act, 1965, provides for the existence of the Trades Union Congress (TUC), which is a federation/confederation of the 17 national unions. The Government states that, of its own volition, the TUC is not affiliated to any international workers' organisation, but that each of the 17 national unions, being autonomous, is affiliated to the various trade secretariats of international occupation organisations, such as those covering transport workers, chemical workers and agricultural workers, and to the Pan-African Employers' Confederation.

The Committee observes that the 1965 Industrial Relations Act, by dealing only with the right of unions to affiliate with the TUC or withdraw from it without prejudice, establishes a system of trade union unity. The Committee recalls that under Article 5 of the Convention trade unions should have the right to establish federations and confederations of their own choosing. Since this system of trade union monopoly imposed by law is at variance with the principle of free choice of organisation laid down in the Convention, the Committee asks the Government to adopt legislative provisions guaranteeing the right of first-level organisations to join national federations and confederations of their own choosing, and the right of unions, federations and confederations to affiliate with international workers' organisations.

In view of the fact that the Committee has been repeating its comments on the three above issues since 1968, and that the Government has received technical assistance from the ILO which, since 1983, has proposed specific amendments to the provisions in question, the Committee trusts that appropriate amendments will be made to the law in the near future. The Committee asks the Government to keep it informed of any developments in this regard and to provide a copy of the amendments as soon as they are adopted.

[The Government is asked to supply full particulars to the Conference at its 78th Session.]

Greece (ratification: 1962)

The Committee notes that the Government's report has not been received. However, it notes Act No. 1915 of 28 December 1990 respecting the protection of trade union rights, the protection of the

whole of the population and the financial independence of the trade union movement, and the comments of the General Confederation of Greek Workers (CGTG) of 30 November 1990.

1. Financial interference by the State in trade union affairs and collection of trade union dues. With reference to its previous comments concerning the workers' role in the financing of trade union organisations and the deduction of trade union dues, the Committee notes that sections 7 and 8 of Act No. 1915 establish the principles of financial independence for trade union organisations, the abolition of state interference, and the deduction of trade union dues with the consent of the wage earner.

However, the Committee also notes that the CGTG indicates, in its communication, that on the pretext of the financial independence of trade union organisations, the new Act deprives these organisations of the workers' money, which could lead to their economic decline. The Committee observes that under section 7 of the new Act, as of 1 January 1992, the total amount paid by workers will be used solely to achieve the objectives provided for in section 1 of Act No. 678/1977, and that under section 8, the amount of dues deducted and the way in which they are distributed among the various levels of trade union organisations will be determined by the general assemblies or executive committees of the various organisations, in accordance with their statutes. Furthermore, dues may only be deducted with the consent of the workers and will be reimbursed by the employer to the first-level enterprise organisation which will be responsible for distributing them.

The Committee has always considered that provisions governing financial operations in workers' organisations should not be such as to enable the public authorities to have discretionary powers over such operations.

The Committee therefore asks the Government to specify the scope of section 1 of Act No. 678/1977.

2. Right to strike in public services and minimum service to meet the vital needs of the population. The Committee is addressing a direct request to the Government on the application of the legislation respecting the minimum service.

3. Freedom of association of seafarers. The Committee recalls that for several years it has been raising the question of the freedom of association of seafarers who are excluded from Act No. 1264 of 1982 respecting freedom of association.

In its previous observation, the Committee noted that the comments of the Greek Shipowners' Union (EEE) and the Pan-Hellenic Maritime Federation (PNO) on the Bill respecting the democratisation of the seafarers' trade union movement were being examined by the authorities.

The Committee 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.

Guatemala (ratification: 1952)

The Committee takes note of the Government's report.

The Committee recalls that the discrepancies between the national legislation and the Convention concern the following points:

- section 211(a) and (b) on the strict supervision of trade union activities by the Government;
- section 207 on the impossibility for unions to take part in politics;
- section 226(a) on the dissolution of trade unions that have taken part in matters concerning electoral or party politics;
- section 223(b) which limits the eligibility for trade union office to Guatemalan nationals;
- section 241(c) which lays down the obligation to obtain a majority of two-thirds of the workers in the enterprise or production centre for the calling of a strike;
- section 222(f) and (m) which requires a majority of two-thirds of the members of a trade union for the calling of a strike;
- sections 243(a) and 249 which prohibit strikes or work stoppages by agricultural workers at harvest time, with a few exceptions;
- sections 243(d) and 249 which prohibit strikes or work stoppages by workers in enterprises or services in which the Government considers that a suspension of their work would seriously affect the national economy;
- section 255 which provides for the possibility of calling upon the national police to ensure the continuation of work in the event of an illegal strike;
- section 257 which provides for the detention and trial of offenders;
- section 390(2) under which a sentence of one to five years' imprisonment can be imposed on those who carry out acts intended not only to cause sabotage and destruction (which, indeed, do not lie within the scope of the protection provided by the Convention), but also to paralyse or disturb the functioning of enterprises contributing to the development of the national economy, with a view to jeopardising national production.

The Committee has pointed out repeatedly that with regard to the election of trade union leaders, provisions to the effect that they shall be nationals of the country should be relaxed in order to enable foreign workers to obtain access to trade union office, at least after a reasonable period of residence in the host country; and that, with regard to the prohibition of political activities, the legislation should permit trade unions to participate in public institutions in order to improve the cultural, economic and social conditions of the workers. With regard to the exercise of the right to strike, limitations and prohibitions are only compatible with the Convention in respect of essential services in the strict sense of the term, that is where their 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.

Furthermore, the Committee wishes to recall that in previous comments it has also referred to the 259th Report of the Committee on Freedom of Association, in which that Committee examined allegations

of excessive delay on the part of the authorities in trade union registration procedures. The Government replied that the Ministry of Labour and Social Security had taken the initiative of proposing amendments to a number of sections of the Labour Code.

The Committee notes that, according to the Government's report, the draft of a new Labour Code which has been approved at its first reading by the Congress of the Republic, is now before the Congress for examination and analysis and takes account of all the Committee's observations.

The Committee hopes that the new Labour Code will be adopted in the near future and that the final version will bring national legislation and practice into full conformity with the provisions of the Convention. The Committee asks the Government to provide information in this respect.

Haiti (ratification: 1979)

The Committee takes note of the information supplied to the Conference Committee in June 1989 and of the Government's reports.

In its previous observation, the Committee asked the Government for information on progress with regard to the draft legislation which was prepared with the assistance of an ILO mission that went to Haiti in October 1985, to amend the legislative provisions on which the Committee has been commenting for several years:

- section 236bis of the Penal Code which requires that government approval be obtained to establish an association of more than 20 persons;
- section 34 of the Decree of 4 November 1983 which confers wide powers on the Government to supervise the trade unions;
- sections 185, 190, 199, 200 and 206 of the Labour Code which impose restrictions on strikes; and
- the need for a statutory right to organise of public servants, even if section 35(3) and (4) of the 1987 Constitution provides constitutional guarantees of the freedom of association of workers in the public and private sectors and recognises the right to strike.

In its most recent report dated 30 November 1990, the Government indicates that section 236bis of the Penal Code does not apply to the establishment of workers' and employers' organisations, which are governed exclusively by the Labour Code and are consequently not subject to any prior authorisation.

With regard to the other provisions mentioned above, the Government states that they are being dealt with as part of the overall revision of the Labour Code that has been under way since 1989. It adds that it is currently preparing provisions to recognise the right to organise of public servants. In this connection, it is requesting ILO technical assistance to examine models for trade union structure in the public service.

With regard to section 236 bis of the Penal Code, the Committee again draws the Government's attention to the fact that this provision specifies that any association of more than 20 persons whose aim is to meet for political, literary, religious or other purposes may only be

established with government approval. The Committee has already indicated that, in its opinion, section 236 bis of the Penal Code can impair the right of workers to establish trade union organisations without previous authorisation laid down in Article 2 of the Convention. It considers that the above section should be amended to ensure full observance of this provision of the Convention.

Furthermore, the Committee takes due note of the Government's request for technical assistance and trusts that following the recent changes in the country it will be possible for the legislative reform already under way to be continued and that, in its next report, the Government will be able to provide information on the progress made by the tripartite committee responsible for the above reform in bringing the legislation into full conformity with the Convention.

Honduras (ratification: 1956)

The Committee notes with regret that the Government has confined itself to sending a copy of its report for the period between 30 June 1987 and 30 June 1988. The Committee also regrets that the Government has not considered the observation made by the Committee at its March 1989 Session. The Committee is therefore bound to repeat its previous comments.

The Committee once again recalls that various points in the Labour Code in force need to be amended in order to bring them into full conformity with the provisions of the Convention, namely:

- the amendment of section 2 of the Labour Code, so as to extend the right to join trade unions expressly to workers in agricultural or stock-raising enterprises not regularly employing more than ten workers, with a view to bringing this provision into conformity with Article 2 of the Convention;
- the amendment of section 472 of the Labour Code, which is inconsistent with Article 2 of the Convention in not permitting the existence in a given enterprise, institution or establishment of more than one works union and in providing that, where there is already more than one union, only the one with the greatest number of members shall remain in existence;
- the amendment of section 510 of the Labour Code, which is inconsistent with Article 3 in requiring that union officers shall, at the moment of election, be normally engaged in the occupational function characteristic of the union and have exercised it for more than six months during the preceding year;
- the bringing into conformity with Article 6 of section 537 of the Code, which provides that federations and confederations are not entitled to call strikes, and section 541, which provides that the leaders of federations and confederations shall have been engaged in the corresponding occupation or function for more than one year before election;

- the amendment of provisions that require a majority of two-thirds at the general assembly of a trade union in order to call a strike (sections 495 and 563 of the Labour Code);
- the need for government authorisation or six months' notice for any suspension or work stoppage in public services that do not depend directly or indirectly on the State (section 558 of the Labour Code). This provision is open to criticism in so far as it applies to certain services - such as transport or services connected with petroleum - that are not essential services in the strict sense of the term, that is to say, services whose interruption would endanger the life, personal safety or health of the whole or part of the population;
- the power of the Minister of Labour and Social Security to end a dispute between employers and workers on the application of either party in services for the production, refining, transport and distribution of petroleum (section 555(2) of the Code).

Since the Government reiterates in its report that it convened a tripartite commission of representative organisations of employers (the Honduran Private Enterprise Council - COHEP) and of workers (Confederation of Workers of Honduras - CTH, and the National Workers' Federation of Honduras - FESITRANH) in order to consider its observations, the Committee is bound to trust that the Government will examine attentively the observations that it has made and once again expresses the firm hope that the Government will take the necessary measures to give full effect to the Convention and requests it to report any progress achieved in this respect.

[The Government is asked to supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Hungary (ratification: 1957)

With reference to the observations that it has been making for several years, the Committee notes with satisfaction the adoption of the new Constitution, dated 18 October 1989, and of Act No. II of 1989 on the right to organise and Act No. VII of 1989 on the right to strike, which establish the possibility of trade union pluralism and guarantee workers the right to call strikes to defend their economic and social interests. In this connection, the Committee notes that several independent trade unions from the pre-existing trade union structure have been registered.

The Committee is addressing a direct request for information on certain points to the Government.

Iceland (ratification: 1952)

With reference to its previous comments on the Act of 20 May 1988, which fixed workers' wage increases and prohibited strikes, the Committee notes with satisfaction that the prohibition on strikes was lifted on 15 February 1989 and that, since then, employers and employees have been able to conclude agreements by means of collective bargaining.

Jamaica (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat 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: 1965)

The Committee notes the Government's reports, the comments submitted by the Japanese Trade Union Confederation (JTUC-RENGO) and the discussions in the Conference Committee in 1989.

1. Denial of the right to organise of fire-fighting personnel. The Government refers to its previous reports in which it clearly indicated its position: the refusal to recognise the right to organise of fire-fighting personnel cannot be considered to be a

violation of the Convention, in view of the opinion issued by the Committee on Freedom of Association (Case No. 60 of 1954 and Case No. 179 of 1961) and the unanimous opinion of the tripartite Subcommittee of the National Round Table on Labour Problems (1958), according to which this personnel belongs to the category of police personnel. For the Government, this matter is therefore an issue to which a solution must be found at the national level, in accordance with Article 9 of the Convention. It is for this reason that on several occasions the Inter-Ministerial Conference has heard the representatives of the organisations concerned, and in particular workers' organisations of fire-fighting personnel and of the members of volunteer corps. In accordance with the promise made to the Conference Committee in 1989, new hearings were held from May to October 1990, which were attended by the All-Japan Prefectural Municipal Workers' Union (JICHIRO), the Congress of Public Employees' Unions (KOMUIN-KYOTO) and the JTUC-RENGO. Furthermore, in order to respond to the demand made by the trade union representatives, the Government, in agreement with the Inter-Ministerial Conference, decided that meetings would take place periodically between the Ministry of Home Affairs and JICHIRO, the first of which will be held soon.

In its most recent comments, received on 21 January 1991, the JTUC-RENGO notes that, during a hearing held on 15 October 1990 by the Inter-Ministerial Conference on Public Employees' Problems, it put forward its point of view in support of the right to organise of fire-fighting personnel and requested the establishment of a permanent consultation body with the trade unions concerned. The JTUC-RENGO indicates that on 27 November 1990 consultations were held between the Government and the trade union concerned (JICHIRO) on the substance of the question and should be continued in order to find a solution to this problem which is in conformity with Convention No. 87 and the interpretation of it by the ILO supervisory bodies.

The Committee notes that the dialogue is continuing between the parties concerned and trusts that these discussions will take account of the comments that it has been making for several years, namely that the functions exercised by fire-fighters are not of such a nature as to warrant their exclusion from the right to organise under Article 9 of the Convention and that it would not be in conformity with the Convention to deny the right to organise to any category of worker other than the armed forces and the police. However, the right to organise does not necessarily imply the right to strike and the fire-fighting services must be considered to be an essential service in the strict sense of the term in which the right to strike may be subject to prohibition.

The Committee requests the Government to supply information on any developments in the situation, and in particular on measures that are envisaged following the current consultations to resolve the issue of the right to organise of fire-fighters at the national level.

2. Prohibition of the right to strike of public servants. The Committee notes the Government's statement to the Conference Committee in 1989 to the effect that it is normal for sanctions to be applied in the event of strikes which, under the terms of the national legislation, are illegal, as is the case in the public services. However, the Government is fully aware of the position of the ILO that

disproportionate sanctions do not favour the development of harmonious industrial relations. The Government is continuing to examine the matter closely.

In these circumstances, the Committee trusts that, following this examination, it will be possible to amend the legislation in order to confine the prohibition on strikes to public servants acting in their capacity as agents of the public authority or to 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. As regards penal sanctions, the Committee points out that they should only be imposed where there are violations of strike prohibitions which are in conformity with the principles of freedom of association and that they should be proportional to the offences committed; penalties of imprisonment should not be imposed in the case of peaceful strikes. The Committee requests the Government to supply information on the progress achieved following the examination of this matter by the Government.

Lesotho (ratification: 1966)

The Committee notes the Government's report.

1. The Committee notes with interest that Order No. 4 of 1988 fell into abeyance six months after the date on which it was adopted, 23 August 1988, and that the state of emergency was lifted, thereby restoring public freedoms without which the recognition of the right to organise has no effect.

2. With reference to its previous comments concerning the need to amend Act No. 34 of 1975, as amended in 1982, the annex to which provides that the banking sector is an essential service (thereby implying that it is subject to compulsory arbitration and depriving workers in the sector of the right to strike), the Committee notes the Government's statement in its report that it is continuing to give the matter active consideration and that it should be resolved with the adoption of the new Labour Code that was compiled with the assistance of the ILO.

The Committee notes with interest that under the terms of the draft text which, according to the Government, is in the process of being adopted:

- section 241 provides that Act No. 34 of 1975 will be repealed; and
- section 232 defines essential services as those services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee expresses the firm hope that the Government will take the necessary measures for the draft Labour Code to be adopted rapidly and requests it to supply the final text once it has been adopted and to indicate in its next report the progress made in this respect.

Liberia (ratification: 1962)

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

The Committee notes with regret 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.

Madagascar (ratification: 1960)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Act No. 89-028 of 29 December 1989 to amend the Constitution of 31 December 1975 (which repeals sections 9 and 29 of the Constitution on the guiding role of the National Front as regards organisations for the defence of the Revolution) and of Ordinance No. 90-001 issuing general regulations on political parties or organisations, also dated 29 December 1989 (which repeals Ordinance No. 76-008 of 20 March 1976 to issue regulations respecting political

organisations, which obliged trade unions to affiliate with an approved revolutionary organisation).

The Committee notes that, according to the Government, these various changes have the effect of ending the monopoly respecting trade union rights exercised by the revolutionary organisations affiliated to a political party that is a member of the Front and that the exercise of the right to organise is regulated by the Ordinance No. 75-013/DM of 17 May 1975, issuing the Labour Code.

The right to organise of public servants. In this new context, the Committee notes with interest that the situation of public officials as regards the principles of the right to organise has changed, since, under Act No. 79-014 on the general conditions of service of public servants, their trade union organisations could only be established within the framework of Ordinance No. 76-008 of 20 March 1976, which has now been repealed. This Ordinance contained several provisions that were incompatible with the Convention, and in particular sections 8, 9, 24 and 25 which empowered the public authorities to interfere in the trade union affairs of public servants (approval for the establishment of an organisation, control and dissolution of the organisation by administrative authority).

In these circumstances and in view of the fact that the Labour Code of 1975 does not apply to these workers, the Committee requests the Government to supply copies of the provisions which now govern the right to organise of public servants.

Privileges granted to trade unions belonging to a revolutionary organisation. In its previous comments, the Committee noted that the Madagascan trade union movement was made up of trade union organisations established under the former regime and of workers' organisations belonging to, or established voluntarily, in revolutionary associations under the terms of Ordinance No. 76-008 of 20 March 1976. It also noted that Ordinance No. 78-006 of 1 May 1978 issuing the Charter of Socialist Undertakings, only recognised for workers who were members of trade unions belonging to a revolutionary organisation the right to be elected to works committees in the above undertakings, thereby applying a distinction between trade union organisations of a nature to jeopardise the right of workers to join the trade union of their own choosing.

In view of the constitutional changes, the Committee requests the Government to indicate whether the organisations established under the terms of Ordinance No. 76-008 of 20 March 1976, which has now been repealed, still continue to exist, and whether Ordinance No. 78-006 of 1 May 1978 is still in force; if so, the Committee would be grateful if the Government would contemplate repealing this Ordinance in order to abolish any privilege for specific trade union organisations.

The Committee is also addressing a direct request to the Government concerning the right to organise of seafarers and the requisitioning of persons in the event of a strike.

Mali (ratification: 1960)

With reference to its previous comments, the Committee notes with satisfaction the information supplied by the Government in its report

that public servants enjoy the right to organise and the right to strike, in certain circumstances, under the terms of Act No. 87-46/AN-RM, which is no longer a draft text since its adoption on 4 July 1987 and its promulgation by the President of the Republic. This Act repeals and replaces certain provisions of Ordinance No. 77-71/CMLN of 26 December 1977 issuing the general conditions of service of public servants of the Republic of Mali and of Act No. 87-47/AN-RM of 4 July 1987 respecting the exercise of the right to strike in public services.

Malta (ratification: 1965)

Referring to its previous comments on the dispute settlement procedure which empowers the Minister, at the request of one of the parties only, to submit unresolved disputes to binding arbitration after the conciliation stage (sections 27 and 34 of the Industrial Relations Act of 1976), the Committee notes the information supplied by the Government in its report to the effect that the initiation of the arbitration procedure does not prevent trade unions from calling strikes or engaging in other types of industrial action to press their claims. According to the Government, these provisions are intended to protect the weaker party in disputes, particularly where the stronger party is not prepared to accept arbitration.

The Committee points out, however, that binding arbitration procedures, whether or not preceded by a conciliation stage, must be designed to facilitate bargaining between the two sides. This means that it is for the parties to decide whether or not they wish to refer any matters in dispute to binding arbitration.

The Committee notes with interest that the Government is currently examining the provisions of the Industrial Relations Act with the intention of introducing amendments and that its comments will be taken into consideration in this re-examination. The Committee requests the Government once again to indicate in its next report the legislative measures that have been taken to bring its legislation into conformity with the Convention by establishing a system in which recourse to binding arbitration involving the prohibition or interruption of strikes is confined to: (a) public servants acting in their capacity as agents of the public authority; (b) essential services, namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population; (c) situations of acute national crisis; or (d) cases in which both parties request such arbitration.

Mauritania (ratification: 1961)

The Committee notes the assurances given by the Government in its report that it took note of the Committee's comments and that it will take all necessary measures to initiate the amendment and repeal procedure of the various provisions in respect of which the Committee had made comments.

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.

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 added 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 Act No. 70-030 of 23 January 1970, 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.

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 once again 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 (sections 39, 40, 45 and 48 of Book IV of the Labour Code as amended by Act No. 74-149 of 11 July 1974), 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 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 acting as agents of the public authority 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 once again 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 again expresses the hope 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 78th Session.]

Mexico (ratification: 1950)

The Committee notes the Government's report, which also contains comments by the Federation of Unions of Workers in the Service of the State (FSTSE), repeating its previous comments and makes others.

The Committee recalls that on various occasions it has pointed out that the following provisions of the Federal Act on State Employees of 1963 are not in conformity with the Convention:

- the prohibition of the co-existence of two or more unions in the same state body (sections 68, 71, 72 and 73 of the Federal Act on state employees);
- the prohibition of a worker in the service of the State from leaving the union to which he belongs (section 69);
- the prohibition of the re-election of trade union officers (section 75);
- the prohibition of unions of public servants from joining trade union organisations of workers or peasants (section 79);

- the extension of the restrictions applicable to trade unions in general to the single Federation of Unions of Workers in the Service of the State (section 84).

The Committee also raised objections concerning section 23 of the Act issued under point XIIIbis, subsection B, article 123, of the Constitution, which institutionalises in the law the trade union monopoly of the National Federation of Banking Unions.

The Committee notes the Government's statement in its report that the Committee left aside in its comments the historical circumstances underlying the legal formulae enacted by the country in its sovereignty and, in particular, the Federal Act on State Employees, which has not been questioned by the national workers' organisations before constitutional or legal bodies. The Committee also notes that, according to the Government, the possibility in the short term of amending the provisions to which the Committee has objected is not being considered since no initiatives to amend the above Act have been submitted to the Congress of the Union neither by the federal executive nor by any trade union organisation concerned. The Government also states that Mexican law gives full protection to, and in no way violates freedom of association or the right to organise, and that the Committee should remain closer to the letter of the Convention, and to its spirit and intent.

Concerning the prohibition of the coexistence of two or more unions in the same state body, the Government quotes in its report the opinion of the FSTSE according to which the legislation recognises by name the representative bodies of groups or individuals that have obtained the majority of the votes cast by all the employees in a public body, that is, recognition of trade union representation is obtained by a majority decision provided that minority views are guaranteed their channels of expression and have the possibility of gaining access to recognition by name of their representative role in subsequent electoral processes. This means that the plurality of points of view coexisting in a trade union organisation are recognised.

The Committee wishes to point out that by virtue of Article 2 of the Convention "workers ... shall have the right to establish ... organisations of their own choosing ...". In other words, it must be the workers, not the legislation, who determine the trade union structure that they desire at the departmental level or the level of the public body whether they decide in full freedom to form one, two or more trade unions within the same establishment. The Committee therefore once again concludes that sections 68, 71, 72 and 73 of the Federal Act on State Employees are not in conformity with the Convention.

Concerning the prohibition of the re-election of trade union officers (section 75), the FSTSE points out that a heritage that is vital to Mexican society is focused in this section, whereby the mobility of individuals or groups in public office is guaranteed. This results in the democratic exercise of public representation and is vital to the political stability of its trade union organisations. According to the FSTSE, the political events in various parts of the world emphasise the importance of mobility of groups which exercise responsibility in the State and in society as one of the mechanisms to correct the excesses of the public authorities, as illustrated by the

case of Eastern European countries. Finally, according to the FSTSE, the Convention provides that the public authorities shall refrain from any interference which would restrict the right of workers' and employers' organisations to elect their representatives in full freedom, although in the case of section 75 of the Federal Act on State Employees it cannot be interpreted that this Act is identified with a public authority. Neither legally nor semantically can a legal provision take on the concept of a public authority.

In this connection, the Committee wishes to emphasise that, although the objective referred to by the FSTSE of "guaranteeing" the mobility of trade union officers fully responds to the objectives of the Convention, section 75 of the Federal Act "imposes" this mobility even in the event of the workers' organisations preferring to re-elect their trade union leaders. The Committee also wishes to emphasise that, even though the Federal Act is not identified with a public authority, this Act, and specifically section 75 thereof, emanates from the public legislative authority. In these circumstances, the Committee is bound to maintain its previous conclusions according to which the prohibition of the re-election of trade union officers restricts the right of workers' organisations to elect their representatives in full freedom, as set out in Article 3 of the Convention.

Concerning the existence and recognition by the Government of a single Federation of Unions of Workers in the Service of the State, the report contains the comments of the FSTSE, which maintain that the similarity in the interests of workers in the service of the State means that it is necessary to consider procedures and forms of organisation which are effective when bargaining with the employer. This would certainly not be guaranteed if multiple organisations existed, since they would undoubtedly produce a fragmentation effect which would be contrary to the stability, strength and effectiveness of trade union organisations. The FSTSE recognises and accepts the requirement to apply procedures and forms of participation which leave room for the various political and trade union tendencies within the Federation, but through the legal system and through collaboration between those within the various trade union tendencies.

In this connection, the Committee emphasises once again that under the terms of the Federal Act on State Employees, the Federation of Unions of Workers in the Service of the State is the only central organisation recognised by the State (section 78) and that it is governed by the provisions relating to trade unions in the above Federal Act (section 84). In these circumstances, the Committee wishes to point out that, although for the workers it is in general advantageous to avoid a multiplicity of conflicting organisations, the imposition by law of a system of trade union unity at the level of federations is incompatible with the right of workers' organisations to establish federations and confederations (Article 5). However, the Committee points out that it is not necessarily incompatible with the Convention for the legislation to establish a distinction between the most representative organisation and other organisations, provided that this distinction is confined to the recognition of certain rights for the most representative organisation (particularly as regards

representation for collective bargaining purposes or for consultation by governments).

Concerning section 23 of the Act issued under article 123, subsection B, point XIIIbis, of the Constitution, which institutionalises in the law the trade union monopoly of the National Federation of Banking Unions (FENASIB), the Government refers to recent constitutional reforms under which: the fifth paragraph of article 28 of the Constitution has been repealed and banking services have been added to article 123, subsection A, of the Constitution; and subsection B, point XIIIbis has been amended.

The Committee notes that, by virtue of the recent amendments to the Constitution, public banking and credit services will no longer be provided exclusively by the State. The Committee understands from the Government's statements that workers in banking and credit institutions which are being transformed into limited companies will be governed by the Federal Labour Act, although as regards banking and credit institutions that are bodies of the federal public administration, it is unclear whether their employees will be covered by the Federal Act on State Employees or whether they will continue to be covered by the Act issued under article 123, subsection B, point XIIIbis, of the Constitution. The Committee would be grateful if the Government would supply information on developments in the legislative situation and if it would specify the trade union rights of bank employees both in the public and private sectors and on the possibility under the law of trade union pluralism at the level of federations.

The Committee observes that the Government did not comment on certain legislative provisions it had criticised.

In view of the importance of the provisions of the Federal Act on State Employees, which are not in conformity with the Convention, the Committee once again hopes that the Government will re-examine its legislation in the light of the principles set out in the Convention and that it will supply information on any measure that has been adopted or is envisaged to bring the above Federal Act into conformity with the requirements of the Convention.

Mongolia (ratification: 1969)

The Committee notes that the Government's report for the period ending 30 June 1990 has not been received.

However, the Committee is aware that profound changes have occurred in the political, economic and social life of the country.

The Committee requests the Government to supply information on the measures that have been taken or are envisaged, particularly with a view to lifting the legal restrictions on trade union pluralism (sections 183 and 187 of the Labour Code) and on the independence of the trade union movement with respect to the Revolutionary Party of Mongolia (article 82 of the Constitution), and especially any draft texts respecting trade unions that are being prepared.

Myanmar (ratification: 1955)

The Committee notes the information supplied by a Government representative to the Conference Committee in 1989, and in the Government's report.

The Committee recalls that for many years it has been raising the question of the trade union monopoly established under section 9 of Act No. 6 of 1964, as amended, and under sections 2 and 6(b) of Regulation No. 5 of 1976. These provisions clearly establish a single union structure, and prevent unions from establishing other organisations outside that structure. This is inconsistent with Articles 2, 5 and 6 of the Convention, which require that all workers should have the right freely to associate for trade union purposes, including the establishment of federations and confederations.

In the information supplied to the Conference Committee in 1989, and repeated in its report, the Government indicated that Myanmar was currently undergoing political, economic and social change. Free and fair elections were held in 1990, and the drafting of a new state Constitution is now a major priority. The Government stated that this new Constitution would make express provision for freedom of association and the right to organise. The Government hoped that the Constitution would be in line with Convention No. 87. The Committee shares the Government's hopes in this regard, and asks the Government to keep it informed of all relevant developments.

In addition, the Government states in its report that workers and employers have the right to establish and join organisations of their own choosing without previous authorisation, and that there are no legal or administrative provisions that hinder them from doing so. The Committee points out that these propositions do not appear to be consistent with the continued existence of the provisions referred to in the previous paragraphs. The Government does not provide any indication that these provisions have been repealed or amended so as to bring them into conformity with the requirements of the Convention. If this has indeed occurred, the Committee asks the Government to supply a copy of the relevant legislation. If there has been no such amendment or repeal, the Committee must yet again urge the Government to introduce the necessary legislation to bring law and practice into full conformity with the requirements of this Convention, which was ratified more than 35 years ago.

[The Government is asked to supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Netherlands (ratification: 1950)

The Committee notes the information supplied by the Government in its reports. It also notes the comments provided by the Federation of Netherlands Industry (VNO) and the Confederation of the Netherlands Trade Union Movement (FNV).

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

would 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.

The Committee notes that the Government had indicated that it was considering whether it might be possible to repeal that part of the WAGGS Act (section 11) which provides for the freezing of terms and conditions of employment in the "budgeted" sector - what the Government refers to as the application of the "ultimate remedy". It was also considering whether section 10, which applies to those sectors where there has not been a budgetary agreement in accordance with section 2 of the Act, might be amended in such a way that the "ultimate remedy" could be used only while taking account of the criteria described by the Committee in its 1989 observation. The Government further indicated that it would be holding consultations with the relevant organisations of employers and workers in relation to these proposed amendments, and that it would also be seeking the advice of the Socio-Economic Council (SER) on the matter. It anticipated that this would take place in the autumn of 1990.

In its comments, the VNO quotes from a letter it had sent to the Government in which it indicated that it would prefer that sections 10 and 11 be amended rather than repealed. It also urged that a final decision be taken as soon as possible, and that that decision be communicated to the ILO so as to enable the Committee of Experts to consider the matter at its meeting in March 1991. The FNV expresses its dissatisfaction with the follow-up given by the Government to the recommendations of the Committee on Freedom of Association in relation to Case No. 1469, and of the Conference Committee in June 1989. According to the FNV no proposed amendments had been presented to it in writing, and the Government had not engaged in any consultations with organisations of employers and workers in relation to the repeal, or amendment, of sections 10 and 11.

The Committee can only note that the Government has not yet introduced any legislation to bring the WAGGS Act into conformity with the requirements of the Convention. It once again urges the Government to introduce such amendments as soon as possible, and to keep the Committee informed of all relevant developments.

Nicaragua (ratification: 1967)

The Committee takes note of the report presented by the Commission of Inquiry established in accordance with article 26 of the ILO Constitution to examine the complaint against Nicaragua concerning the application of Conventions Nos. 87, 98 and 144. The Committee notes in particular that in paragraph 546 of its recommendations the Commission of Inquiry considers that the Government should indicate, as from 1991, in its reports submitted under article 22 of the Constitution, the measures taken in law and in practice to give effect to its recommendations on the application of these Conventions during the period in question.

Consequently, the Committee asks the Government to provide detailed information on the measures taken to give effect to the recommendations of the Commission of Inquiry.

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

Nigeria (ratification: 1960)

The Committee notes from the Government's report that the National Labour Advisory Council (a tripartite body responsible for examining the provisions of the labour legislation that are not in conformity with the Convention) is continuing its work and that its recommendations will be communicated to the ILO as soon as they have been submitted to, and approved by, the Government.

1. Articles 2 and 3 of the Convention. With reference to its detailed observation of 1989, the Committee recalls that it has been pointing out for many years the numerous fundamental discrepancies between the national legislation and certain Articles of the Convention, namely:

- the single trade union system established by law under which any registered trade union is compulsorily affiliated to the Nigerian Labour Congress, the only central organisation, which is designated by name; the establishment of a single trade union for each category of workers in accordance with a pre-established list; and too high a number of members for the establishment of a trade union;
- non-recognition of the right to organise of certain categories of workers (employees in the customs service, in mints, in the Central Bank of Nigeria and in the external telecommunications company);
- broad powers of the Registrar to supervise the accounts of trade unions at any time;
- the possibility of restricting the exercise of the right to strike through the imposition of compulsory arbitration beyond essential services in the strict sense of the term.

The Committee once again expresses the firm hope that the Government will examine most attentively the observations that it has been making for many years in this respect, and urges the Government to indicate in its next report the measures that have been taken to give full effect to the provisions of the Convention.

2. Article 5. The Committee also notes that the Government has adopted Decree No. 35 of 1989, which: prohibits any international affiliation of trade unions, orders the central trade union, industrial unions and employers' associations to cease any existing international affiliation outside the prescriptions laid down by the Decree; and sets out a restrictive list of the international workers' and employers' organisations to which these bodies may affiliate. The Decree provides for very heavy sanctions for persons or organisations which contravene it, including: fines; being struck off the register of trade unions; and/or sentences of imprisonment of up to five years.

The Committee points out that organisations of workers and employers have the right to affiliate with international organisations

of workers and employers, to participate in their activities and to benefit from the advantages flowing from their affiliation (General Survey on Freedom of Association and Collective Bargaining, 1983, paragraphs 250-251); this principle has been reaffirmed on several occasions by the Committee on Freedom of Association. The Committee therefore invites the Government to repeal Decree No. 35 and to inform it in its next report of the measures that have been taken in this respect.

[The Government is asked to supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Pakistan (ratification: 1951)

The Committee notes the Government's report for the period to 30 June 1989, but has not received its report for the period to 30 June 1990. The Committee also notes the comments of the Pakistan National Federation of Trade Unions (PNFTU) in communications dated 21 December 1989 and 24 February 1990. The Government has not sent any observations on these comments to the Committee.

In its 1989 observation, the Committee had referred to divergencies between the Convention and legislative provisions which deny certain workers the right to establish trade union organisations, restrict the right to strike, permit the supervision of trade union funds by the Registrar and limit the right of representation of minority unions.

Trade union rights - Pakistan International Airlines Corporation

In its report, the Government indicates that section 10 of the Pakistan International Airlines Corporation Act, 1956 had been amended so as to enable workers employed by the Pakistan International Airlines Corporation (PIAC) to take part in trade union activities under the Industrial Relations Ordinance, 1969. The Committee notes with interest that the Government has now taken measures to remove the ban on trade union membership and activities at PIAC to which the Committee had been drawing attention for several years. It also asks the Government to send it a copy of the relevant legislation, as promised in its report.

Trade union rights - Senior public servants

In its 1989 observation, and on many previous occasions, the Committee expressed its concern about the exclusion of public servants of Grade 16 and above from the scope of the Industrial Relations Ordinance, and, through a direct request, had asked the Government to provide certain further information as to the number of workers affected by this ban and as to the nature and activities of the associations to which, according to the Government, such officials were entitled to belong.

In its report the Government indicates that in 1986, 17,652 (9.39 per cent) out of a total of 187,925 federal public servants were classified as Grade 16 or above. It also indicates that the effect of this exclusion is to place senior public servants in the same position as managerial staff in the private sector. The Government has not, however, supplied the requested information as to the number, size and activities of the "associations" to which public servants of Grade 16 and above may belong. The Committee requests the Government to include this information in its next report.

Trade union rights - Export processing zones

In its 1989 observation, the Committee noted that on the basis of section 25 of the Export Processing Zones Authority Ordinance, 1980, the Government had entirely exempted all export processing zones from the scope of the Industrial Relations Ordinance, whilst section 4 of the Export Processing Zone (Control of Employment) Rules, 1982, deprived workers in such zones of the right to strike or to take other forms of industrial action. The Committee considered that these provisions are not consistent with the requirements of Articles 2 and 3 of the Convention.

In its report the Government indicates that it will give consideration to the possibility of removing these restrictions as part of its general policy of allowing full trade union activity in the country. It has not, however, supplied any subsequent information as to the outcome of its deliberations on this matter.

In the circumstances, the Committee must call upon the Government to keep it informed as to the steps it proposes to take to remove these restrictions on trade union membership and activity which are clearly incompatible with the requirements of the Convention.

Recourse to strikes

For some years the Committee has been drawing the Government's attention to the fact that certain of the restrictions on recourse to strikes which are set out in sections 32 and 33 of the Industrial Relations Ordinance seem to interfere with the right to strike.

The Committee notes that section 32(2) of the Ordinance enables the Government to prohibit any strike or lock-out where it has lasted for more than 30 days, or where the Government is satisfied that continuance of the strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest. Section 33(1) on the other hand enables the Government to prohibit any strike or lock-out, before or after its commencement, where the dispute is of "national importance" or involves "public utility services" within the meaning of the Schedule to the Ordinance. These restrictions appear to the Committee to go beyond what is necessary in order to maintain services whose interruption would endanger the life, personal safety or the health of the whole or part of the population. It must, therefore, urge the Government to ensure that these provisions are amended so as to bring them into full conformity with the requirements of the Convention.

Right of representation of minority unions

On a number of occasions the Committee has noted that workers in minority unions cannot be represented by the union of their choice in relation to individual grievances, and has pointed out to the Government that this situation is not compatible with the requirements of Article 2 of the Convention.

The Government indicates that it knows of no case where a collective bargaining agent has refused to represent the interests of a member of a minority union - on the contrary, collective bargaining agents often give preference to the claims of members of minority unions with a view to encouraging them to switch allegiance. The Government does not, however, consider that it would be appropriate to permit minority unions to represent the individual interests of their members because to do so would be to jeopardise and destabilise the position of the collective bargaining agent.

The Committee notes the views of the Government on this matter, but must reiterate that full conformity with the requirements of the Convention means that members of minority unions should have the right to be represented by their own union in relation to their individual claims if they so choose.

Promotion of union activists as an anti-union tactic

The Pakistan National Federation of Trade Unions (PNFTU) alleges that a number of foreign-owned companies in the banking and financial services sector have been pursuing a policy of "promoting" their employees so as to remove them from the category of "workman" in section 2 of the Industrial Relations Ordinance, and placing them instead in the category of "employer". According to the PNFTU, these "promotions" are purely formal in character and are designed to weaken the position of trade unions by virtue of the fact that under the Ordinance "employers" and "workers" may not belong to the same union.

The Committee has pointed out in the past that it is not necessarily incompatible with the requirements of Article 2 of the Convention to deny managerial or supervisory employees the right to belong to the same trade unions as other workers. This is, however, subject to two provisos: first, that they have the right to form their own associations to defend their interests and, secondly, 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 enterprise or branch of activity are weakened by depriving them of a substantial proportion of their present or potential membership (1983 General Survey, paragraph 131).

In order to enable it to make an informed assessment of the compatibility of section 2 of the Ordinance with the requirements of the Convention, the Committee would ask the Government to provide an indication of the proportion of the workforce who are regarded as being "employers" within the terms of that section. It also asks the Government to provide information as to the number and size of organisations which have been formed in order to represent the interests of such persons, and to provide its observations on the comments of the PNFTU in relation to this matter.

In view of the fact that the Committee has been commenting on many of these matters for many years, it expresses the firm hope that the Government will make every effort to take the measures which are necessary to give full effect to the Convention, and that it will do so in the near future.

[The Government is asked to supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Panama (ratification: 1958)

The Committee notes that the Government's report only covers the period 30 October 1988 to 30 October 1989 and that it contains no indications enabling the Committee to modify its previous comments.

The Committee recalls that since 1973 its comments have addressed the following points:

- 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) of the Labour Code);
- the requirement of too high a number of members to establish an occupational organisation (50 workers or ten employers, section 344);
- 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)).

In view of the gravity of these points and the large number of years for which it has been insisting upon the need to amend the legislation, the Committee urges the Government to take measures in the near future to bring the law and practice into conformity with the Convention.

Furthermore, the Committee notes that the Legislative Assembly has adopted Act No. 13 of 11 October 1990, which sets out restrictions on the right to strike. The above Act provides for collective disputes to be submitted to compulsory arbitration in all enterprises that provide public services and in other enterprises when the continuation of the strike could result in serious economic problems for the enterprise. The Committee emphasises that, according to its principles, the right to strike can only be subject to serious restrictions, such as for example submission to compulsory arbitration in: (1) essential services in the strict sense of the term (those whose interruption would endanger the life, personal safety or health of the whole or part of the population); (2) the case of public servants acting in their capacity as agents of the public authority; and (3) in the event of an acute national crisis. The Committee therefore requests the Government to take measures to amend the above-mentioned provisions in order to take full account of these principles.

Finally, the Committee notes that Act No. 25 of 14 December 1990, with retroactive effect as of 4 December 1990 "authorises the

Executive and directors of independent and semi-independent institutions, state and municipal enterprises and other public state bodies to declare void the appointments of: persons in the public services who have participated or are participating in the organisation, calling or execution of activities that threaten democracy and the constitutional order, whether or not they hold office in trade unions and associations of public servants; their trade union or sectoral delegates and representatives, the officers of the associations of public servants, irrespective of the existence of trade union immunity; and irrespective of whether they are governed by special laws". The Committee observes that appeals may be made only to administrative and not to judicial bodies against the above declarations that appointments are void. The Committee considers that Act No. 25 greatly prejudices the exercise of the right of associations of public employees to organise their activities, including through strikes, that it is intended to legitimise the dismissal of a large number of such employees, and it requests the Government to take measures to repeal it.

[The Government is asked supply full particulars to the Conference at its 78th Session and to report in detail for the period ending 30 June 1991.]

Paraguay (ratification: 1962)

The Committee takes note of the Government's report.

For many years, the Committee has been making comments on the importance of clear recognition being given in the legislation to the right to organise and to collective bargaining of workers in public bodies and autonomous enterprises producing goods or supplying services for the public, and of recognising expressly the right of public servants to associate not only for cultural and social purposes (section 31 of Act No. 200) but also for the purposes of furthering and defending their occupational and economic interests. The Committee has also emphasised the need to repeal section 36 of Act No. 200, which prohibits public servants from adopting collective resolutions against the measures taken by the competent authorities.

The Committee wishes to refer in this connection to the conclusions of the Committee on Freedom of Association in its 259th and 275th Reports, in its examination of Case No. 1341 (Paraguay) in its November 1988 and November 1990 meetings, in which it requested the Government to amend Act No. 200 regarding the public service (sections 31 and 36) so as to include specific legal provisions on the right to organise of public employees and to introduce machinery for the settlement of collective disputes in the public service in which the persons concerned will have confidence. Furthermore, the Committee on Freedom of Association requested the Government to adopt specific provisions, by introducing adequate conciliation and arbitration procedures, to compensate for the fact that doctors and nurses have no right to strike.

The Committee also wishes to recall that it made comments on sections 353 (the requirement of three-quarters of the members to call a strike) and 360 (services in which strikes are prohibited, despite

the fact that not all of these services affect the life, personal safety and health of the population, in particular transport, basic commodities, fuel for transport and banks) of the Labour Code, and sections 284 (submission of collective disputes to compulsory arbitration) and 291 (dismissal of the workers who have ceased work during the procedure) of the Code of Labour Procedure, as well as section 285 of the Labour Code (prohibition on trade unions from receiving subsidies or economic assistance from foreign or international organisations).

The Committee notes the Government's statement in its report that the drafting committee for the new text of the Labour Code has taken account of the Committee's comments on the right to organise and to collective bargaining of workers in public bodies, and on the right of public servants to associate for the purposes of furthering and defending their occupational and economic interests. The Committee requests the Government to send it the text of the draft in question and to state whether its comments have also been taken into account on the right to strike of public servants and public employees who do not act in their capacity as agents of the public authority and who do not provide an essential service in the strict sense of the term, as well as on the prohibition on trade unions from receiving subsidies or economic assistance from foreign or international organisations.

The Committee also notes that, in reply to its request for information, the Government states that judicial appeal against decisions by the Ministry of Justice and Employment to dissolve a trade union (section 308 of the Labour Code) has a suspensive effect.

The Committee expresses the firm hope that in the very near future the law and practice will be modified in order to bring them into full conformity with the Convention. The Committee requests the Government to supply information in its next report on the measures that have been adopted in this respect. The Committee recalls that the Office remains at the Government's disposal for any assistance that it may wish to request.

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

Peru (ratification: 1960)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report and the discussions that took place in the Conference Committee in 1990. It also notes with satisfaction the adoption of Presidential Decree No. 076-90-TR of 19 December 1990, which simplifies the registration procedures for trade unions and the conditions for the establishment of federations and confederations, makes trade union pluralism possible and sets out the right to organise of casual self-employed workers.

The Committee nevertheless recalls that its comments have referred for several years to the prohibition of the re-election of the officers of the public servants' union immediately following the end of their term of office (section 16(2) of Presidential Decree No. 003-82-PCM), the prohibition of public servants' federations and

confederations from forming part of organisations representing other categories of workers (section 19, Presidential Decree No. 003-82-PCM), the necessity of changing the requirement of over 50 per cent of workers for the creation of a union, either of manual or of non-manual workers or a mixed union of manual and non-manual workers (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), 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), and the necessity of amending section 6 of Presidential Decree No. 009 of 1961 prohibiting trade unions from engaging in political activities as institutions.

Trade union rights of public servants

1. With regard to the question of the prohibition of re-electing trade union officers for the trade unions of public servants immediately after the end of their term of office (section 16(2) of Presidential Decree No. 003-82-PCM), the Government indicates that this provision was adopted with the objective of guiding trade union organisations of public servants towards real democratisation, and that they have adopted this system, which has been accepted by their members and is set out in their own statutes. The Government adds that the necessary co-ordination will be ensured so that the required changes can be made at the appropriate time. The Committee notes this information and requests the Government to repeal this prohibition and to leave the power to decide in such cases to the members of the trade unions when they draw up their own statutes.

As regards the prohibition of the affiliation of federations and confederations of public servants to organisations which cover other categories of workers (section 19 of Presidential Decree No. 003-82-PCM), the Government indicates that the validity of this prohibition lies in the fact that the solution of labour disputes in the public sector takes place through its own procedures and that the participation of other trade union organisations, which are not confined to public servants, would not be reasonable since there is a difference in industrial relations between the public and the private sector.

The Committee notes the Government's observations but is bound to recall the recommendations that it made previously in this connection and 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 least at the level of higher organisations (see paragraphs 78 and 126 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

Right of workers to establish unions of their own choosing

3. With regard to the requirement that over 50 per cent of workers are needed to establish a trade union of manual workers, non-manual workers or a mixed trade union (section 11 of Presidential

Decree No. 009 of 1961), the Committee notes with interest that section 5 of Presidential Decree No. 076-90-TR sets a minimum of 20 workers for the establishment of a first-level or basic trade union, and that, in the event of a plurality of first-level or basic trade unions, each trade union shall be the sole representative of its members (section 11(a)).

The Committee requests the Government to inform it whether these provisions (section 11 of Presidential Decree No. 009 of 1961 and sections 5 and 11(a) of Presidential Decree No. 076-90-TR) are mutually complementary or whether, in the event of section 11 of Presidential Decree No. 009 remaining in force, one of these provisions overrides the other.

The right of workers to elect their
representatives in full freedom

4. With regard to the necessity of belonging to the enterprise to hold trade union office (Presidential Decree No. 001 of 15 January 1963), the Government indicated that the obligation to belong to the occupation had been eliminated from the General Labour Bill.

The Committee trusts once again that this new provision 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.

Prohibition on trade unions from
engaging in political activities

5. With regard to the prohibition of trade unions from engaging in political activities as institutions, by virtue of section 6 of Presidential Decree No. 009 of 1961, the Committee noted the Government's statement that this prohibition applied to trade unions and not to their individual members. The Government indicated that by their nature trade union organisations had the objective of defending the rights of the workers strictly within the field of labour and that, as trade union organisations, they did not have the mandate to represent workers at the political level, although that did not mean that they were prohibited from expressing their opinions publicly on questions concerning the policy of the State regarding the interests and rights of their members.

While noting this information, the Committee once again draws the Government's attention to the need to amend the legislation in order to guarantee trade union organisations the possibility of expressing their opinions publicly on questions of general interest, including "political" questions in the broad sense of the word so that, for example, they must be able to express their views publicly on a government's economic and social policy, since the fundamental objective of the trade union movement is to ensure the development of the social and economic well-being of all workers.

The Committee notes on the other hand that the Government has not transmitted its observations in reply to the matters raised by the Committee in its previous direct requests. The Committee must address

another direct request to the Government concerning the restrictions on the right to strike still contained in the law.

The Committee trusts that the Government will take the necessary measures to bring the whole of its legislation into full conformity with the Convention as soon as possible.

[The Committee requests the Government to supply full particulars to the Conference at its 78th Session.]

Philippines (ratification: 1953)

With reference to its previous observations, the Committee takes note of the Government's report, in particular its statement that the recent amendments to the Labor Code contained in Act No. 6715 were the outcome of tripartite consultation.

In its previous observation the Committee had taken note of the amendments introduced by Act No. 6715, but it had still to raise the following points:

Articles 2 and 5 of the Convention

- the requirement that at least 20 per cent of the workers in a bargaining unit are members of a union for the union to be registered (section 234(c) of the Labor 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 - other than those with valid permits if the same rights are granted to Filipino workers in the country of origin of the alien workers - from engaging in any trade union activity (section 269) under penalty of deportation (section 272(b)).

Article 3

- compulsory arbitration when, in the opinion of the Secretary of Labor and Employment, a planned or current strike affects an industry indispensable to the national interest, which results in restrictions on the right to strike in non-essential services (section 263(g) and (i));
- penalties for participation in 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 three years, 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 strike pickets or collective actions deemed to be for propaganda purposes against the Government.

1. As regards the trade union rights of alien workers, the Committee notes the Government's report according to which to grant foreigners the same rights that are accorded to Filipinos would not be acceptable "as it would not speak well of local union leaders" if the law were to allow foreigners to organise workers in the country.

The Committee considers that it should be left to the workers themselves to decide who can set up workers' organisations and consequently it views this prohibition as undermining the right of

migrant workers to play an active role in the defence of their interests. It accordingly requests the Government once again to amend this provision so as to guarantee the trade union rights of aliens working legally in the country without distinction on grounds of reciprocal conditions, and thus to ensure full conformity with Article 2 of the Convention.

2. As regards the membership requirement of section 234(c), the Committee notes from the Government's report that 20 per cent is applied only in establishments where there is a multiplicity of unions and that in unorganised establishments, no such requirement is followed. Likewise it notes that the affiliation requirements for registration of federations or central organisations set out in section 237(a) is, according to the report, necessary to establish the substantial interest of an organisation to form a federation and ensures the strength of the federation in its actions.

The Committee, given the importance of the right of workers to be able to establish organisations of their own choosing and of workers' organisations to be able to establish federations and confederations without previous authorisation, can only again request the Government to reconsider reducing these prescriptions in the legislation so as to give full effect to Articles 2 and 5.

3. As regards limitations on the exercise of the right to strike contained, inter alia, in section 263(g) and (i) of the Labor Code, the Committee notes the Government's emphasis on the definition of industries where the Secretary of Labor can prevent or halt strikes, namely those "indispensable to the national interest" and the specific references in section 263(g) to hospitals. While insisting on the State's need for power to intervene "where its very existence is at stake", the Government recognises that this measure should be used sparingly, particularly as the Philippines' Constitution itself advocates the use of voluntary modes of dispute settlement. According to the report, it is in fact unions which have increasingly petitioned the Secretary to assume jurisdiction especially where collective bargaining negotiations are deadlocked. Despite this explanation, the Committee must insist on revision of this provision of the Labor Code which still, in the opinion of the Committee, is not in full conformity with the principle of freedom of association regarding situations where strike action may be limited or totally banned. It recalls that such intervention is permissible in the following 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; and (3) in acute national crises for a reasonable period.

Since the definition in section 236(g) goes beyond the three situations outlined above, the Committee would again request the Government to take measures to limit this restriction on the right to strike.

4. As regards penalties under section 272 of the Labor Code and section 164 of the revised Penal Code for engaging in illegal strikes, the Committee notes from the Government's report that there is no automatic prosecution since efforts are made to settle disputes extra-judicially and government prosecutors are required to secure

clearance from the Department of Labor (DOLE) and/or the Office of the President before taking cognisance of complaints for preliminary investigation and eventual filing of cases in the courts. In addition, the DOLE must then conduct a conference with a view to achieving voluntary settlement of the case through the National Conciliation and Mediation Board (NCMB); this latter body always includes in a settlement agreement provisions for both parties not to engage in retaliatory actions against each other, or for the withdrawal of any cases filed against either of them.

The Committee acknowledges the role of the NCMB but points out that section 272 sets out strong penalties, including imprisonment of up to three years, for violations of section 264, a provision which this Committee considers lays excessive restrictions on legitimate strike action. Moreover, the revised Penal Code still lays down sanctions of life imprisonment. So, where the NCMB fails to achieve a settlement and workers go on strike, they run the risk of severe sanctions for exercising a right which the supervisory bodies have consistently protected. It thus recalls that penal sanctions should not be imposed for strikes except where the grounds of their illegality are in accordance with the principles of freedom of association, such as those outlined above. 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. The Committee accordingly asks the Government to review section 272 of the Code and section 164 of the Penal Code so as to make the sanctions for illegal strikes commensurate with the limits described above.

5. Lastly, the Committee notes the Government's acknowledgement that the present law needs some improvement; it points out that the ILO is at its disposal for any assistance that the Government may need in revising the legislation along the lines outlined above and covering all the points raised by the Committee.

Poland (ratification: 1957)

With reference to its previous comments, the Committee notes from the Government's report that draft legislation on trade unions and employers' organisations is currently being examined by the Sejm and that this draft legislation takes account of the comments of the Committee of Experts as regards the necessity of fully recognising the right to organise of prison officers and restricting the scope of restrictions on the right to strike.

The Committee requests the Government to keep it informed of any progress made in these fields.

Romania (ratification: 1957)

The Committee notes the Government's report and the definitive conclusions adopted in Case No. 1492 by the Committee on Freedom of Association, based on the report of the ILO mission which visited

Romania in April 1990 (272nd Report, May-June 1990). It also notes that an ILO technical advisory mission took place in August 1990.

With reference to its previous observations the Committee notes with satisfaction that: (1) the Legislative Decree of 28 December 1989 abolished the leading role of the Communist Party with regard to mass organisations, including trade unions; (2) that Legislative Decree No. 8 of 31 December 1989, by repealing several provisions of Act No. 52 of 1945 respecting occupational trade unions, and Legislative Decree No. 147 of 11 May 1990, by amending section 164 of the Labour Code and repealing sections 165 to 170 of the Code, introduced the possibility of trade union pluralism. This new legal context has permitted the emergence of eight central trade union organisations and many federations and first-level trade unions.

The Committee also notes that several Bills have been formulated - on trade unions, the settlement of labour disputes and collective bargaining - and that they were commented upon by the representatives of the Director-General during their missions to Romania.

While the Committee was in session the legislative texts on the settlement of labour disputes and collective bargaining were received by the Office. The Committee proposes examining them at its next session. The Committee would be grateful if the Government would supply a copy of the Bill on trade unions so that it can be examined before it is adopted.

The Committee recalls that the ILO is at the disposal of the Government to supply any assistance that is needed for the current revision of the legislation.

Senegal (ratification: 1960)

In its previous observations, the Committee noted that a Bill had been prepared in order to exclude trade union organisations from the scope of Act No. 65-40 of 22 May 1965 concerning seditious associations, which permits the dissolution by decree of associations or groups whose activities would be such as to disrupt, by unlawful means, the functioning of the constitutional order.

The Committee notes that discussions on this Bill are continuing between the Ministries of Labour and the Interior.

The Committee trusts that the Bill will be adopted in order to give full effect to Article 4 of the Convention which prohibits any dissolution of workers' organisations by administrative authority.

Seychelles (ratification: 1978)

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

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

Swaziland (ratification: 1978)

The Committee notes the Government's report. With reference to its previous comments, and in particular its detailed observation of 1990, the Committee recalls that the discrepancies between the legislation and the Convention related to the following points under the 1980 Industrial Relations Act:

Article 2 of the Convention

- non-recognition of the right of association of prison staff (section 83(c));
- obligation upon workers to organise within the context of the industry in which they exercise their activity (section 2(1) and (2));
- power of the Labour Commissioner to refuse to register a trade union if he considers that the interests of the workers are fully or substantially represented by a trade union that has already been registered (section 23), even though, by virtue of section 24(1)(d) an appeal may be made against such a refusal before the Labour Tribunal;
- obligation for an occupational organisation or federation to obtain authorisation before affiliating with any international organisation (section 34(1)).

Article 3 of the Convention

- prohibition on federations from carrying out political activities and limitation of their activities to providing advice and services (section 33);
- prohibition of the right to strike in certain sectors or services, including, in particular, the postal, radio and teaching sectors (section 65(6));
- power of the Minister to refer any dispute to compulsory arbitration if he considers that a current or pending strike constitutes a threat to the national interest (section 63(1)).

The Committee notes the Government's statement that it is taking measures to propose amendments to the competent authorities, and its undertaking to keep the Committee informed of developments in this respect.

The Committee trusts that the Government will take account of the above comments and its previous observations when reviewing its legislation so as to give effect to the Convention, with the technical assistance of the ILO. It requests the Government to transmit copies of any legislative amendments in this regard as soon as they have been adopted.

The Committee is also addressing a direct request to the Government on the right of workers' organisations to hold meetings for trade union purposes without prior authorisation from the police.

Syrian Arab Republic (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:

With reference to its previous comments, the Committee notes from the Government's brief report that a committee made up of representatives of the Ministry of Social Affairs and Labour, the General Federation of Workers' Unions, the General Federation of Peasants' Associations, the General Federation of Craftsmen and the Chamber of Industry has been formed to examine its comments and that the conclusions of this committee will be communicated to the ILO.

The Committee recalls that the discrepancies between the national legislation and the Convention concern the following:

- Legislative Decree No. 84 of 1968 concerning trade unions (section 7);
- Legislative Decree No. 250 of 1969 (section 2) and Law No. 21 of 1974 concerning peasants' co-operative associations (sections 26-31) which impose a single trade union system;
- section 25 of Legislative Decree No. 84 restricting the trade union rights of non-Arab foreign workers;
- sections 32, 35, 36, 44, 49(c) of Legislative Decree No. 84 and sections 6 and 12 of Legislative Decree No. 250 of 1969 restricting the free administration and independence of the management of trade unions;
- section 160 of the Agricultural Labour Code of 1958 prohibiting strikes in the agricultural sector.

1. The single trade union system. The law provides (Legislative Decree No. 84 of 26 June 1968, Legislative Decree No. 250 of 1969 and Law No. 21 of 1974) that only one trade union can be set up for the same occupation within the same "mouhafazat" (section 3). The unions in a "mouhafazat" can only group themselves into one federation of workers in the "mouhafazat" (section 5) and all can group themselves into the General Federation of Workers of Syria (section 7). In addition, only when this Federation has taken a decision can the occupations which may constitute groups of unions and the occupational groups which may constitute unions be determined (section 4), and the General Federation has the right to dissolve the management committee of any trade union (section 49(c)).

The Committee has recognised, in paragraph 136 of its General Survey on Freedom of Association and Collective Bargaining of 1983, that Article 2 of the Convention which guarantees workers the right to constitute and join organisations of their choice is not intended as an expression of support either for the idea of trade union unity or for that of trade union pluralism; pluralism, however, should remain possible in all cases. The Committee therefore asks the Government to ensure that workers wishing to form unions other than occupational associations (which they are entitled to set up) outside the established structure that is directly linked to the General

Federation of Trade Unions, may do so in conformity with Article 2.

2. Restrictions on the trade union rights of non-Arab foreign workers employed in the Syrian Arab Republic. Section 25 of Legislative Decree No. 84 only entitles such workers to form or join trade unions if they have been resident in Syria for one year and only if there are reciprocal rights. In the past, the Government has stated that reciprocal clauses are a matter of State sovereignty but that, in practice, every worker may belong to a union.

The Committee recalls that section 25 should be amended to ensure that all workers, without distinction whatsoever are entitled to join a trade union.

3. The wide powers of intervention of the authorities in trade union finances.

- The need for the prior consent of the General Federation of Workers' Unions and the approval of the Ministry for the acceptance of gifts, donations and legacies (section 32 of Legislative Decree No. 84).
- The obligation on unions to allocate a certain percentage of their income to the higher trade union bodies (section 36 of Legislative Decree No. 84 and section 12 of Legislative Decree No. 250).
- Financial supervision by the Ministry at all levels of the trade union organisation (section 35 of Legislative Decree No. 84).

Referring to the requirement of prior consent, the Government stated previously that it would not be logical for a trade union to accept a gift from a person or organisation if this was not in the interests of national objectives or if there were a risk of threat to the sovereignty of the country. The Government added, with regard to the obligation to allocate a certain percentage of trade union income to higher trade union bodies, that this concerned legally financed assistance. Finally, as regards the ministerial powers of supervision of trade union finances, the Government affirmed that this law was designed merely to ensure that the accounts are properly kept and should not affect the manner in which the trade unions use their funds nor the objectives of the unions. The instructions issued by the Ministry in 1968 concern the verification of funds and financial statements and the bodies dealing with financial management.

The Committee took note of these explanations but stressed the need for legislation to be brought into line with Article 3 of the Convention that guarantees workers' organisations the right to organise their administration without interference by the public authorities. It recalled that supervision of union finances should not normally go beyond a requirement for the periodic submission of financial reports. On the other hand, if the administrative authority has a discretionary power to inspect the books and other documents of organisations or to carry out investigations and demand information at any time, there exists a serious risk of interference in trade union affairs. It

therefore requested the Government to provide detailed information concerning the authority of the Ministry in this connection and the manner in which it is exercised.

4. Necessity to spend six months in an occupation before being eligible for trade union office (section 44 of Legislative Decree No. 84). The Government stated that this provision is designed to ensure that trade union leaders are competent and trained.

The Committee has indicated in paragraph 158 of its General Survey that provisions of this type may prevent qualified persons, such as pensioners or full-time union officers, from carrying out union duties. It therefore requests the Government to make its legislation more flexible by admitting as candidates persons who have previously been employed in the occupation concerned and by exempting from the occupational requirement a reasonable proportion of the officers of organisations, so as to allow the candidature of persons outside the profession.

5. Prohibition of strikes in the agricultural sector (section 160 of the Labour Code of 1958). The Government stated previously that a draft law had been prepared to repeal this provision.

In the opinion of the Committee, it is most important that legislation should not deprive agricultural trade unions of the right to strike, as this is an essential means by which they may promote and defend the occupational interests of their members.

The Committee trusts that the Government will examine the above conclusions and observations closely, and requests it, in its next report, to give full particulars of the measures taken or contemplated to remove the single trade union system imposed by law, grant trade union rights to all workers including foreigners, and remove excessive restrictions on the right of workers' organisations to elect their representatives freely and to organise their administration and activities without interference by the public authorities, including with regard to the exercise of the right to strike.

Togo (ratification: 1960)

With reference to its previous comment concerning the provisions of Ordinance No. 77-5 of 4 March 1977 and of Decree No. 77-66 of 14 March 1977, which provide for the compulsory deduction of trade union dues for the National Confederation of Workers of Togo (CNTT), designated by name in the legislation, the Committee notes the information supplied by the Government in its report to the effect that it has noted the Committee's observations and that the appropriate measures will be taken in order to bring the legislation into conformity with the Convention.

The Committee recalls that the legislation respecting the compulsory deduction of trade union dues, in its current form, has the effect of limiting the principle of trade union pluralism that is recognised in the national legislation even though, as the Government indicated in a previous report, the system for the deduction of trade

union dues for the CNTT was introduced in the legislation after the agreement of the members of the CNTT.

Given that the issue of compulsory deduction of union dues in favour of the CNTT has been raised for several years, the Committee urges the Government to take steps to amend the legislation on this point. It points out, in this connection, that the Government could envisage the adoption of a provision making it possible, without naming them, for representative trade union organisations (according to the current law or practice) to request, following the agreement of their members, to benefit from the deduction from wages of trade union dues.

The Committee requests the Government to supply information on the measures that have been taken or are contemplated in this respect.

Trinidad and Tobago (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:

For several years now, the Committee has been requesting the Government to take steps to:

- amend provisions that afford a privileged position to registered associations, without providing objective and pre-established criteria for determining the most representative association (sections 24(3) of the Civil Service Act, 28 of the Fire Service Act and 26 of the Prison Service Act);
- amend section 59(4)(a) of the Industrial Relations Act, as amended in 1978, so as to enable a simple majority of the voters in a bargaining unit (excluding those workers not taking part in the vote) to call a strike;
- amend sections 61 and 65 of the same Act to ensure that any resort to the Court by the Ministry of Labour or by one party only to end a strike is limited to cases of strikes in essential services in the strict sense of the term, that is to say, those in which the strike would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crisis.

The Committee also notes that the Government is still carefully considering the implications of amendments to sections 59(4) and 65 of the Industrial Relations Act, that it has appointed a high-level review committee to undertake a global review of all the Service Acts and regulations and pledged to keep it informed of developments in this matter. The Committee therefore requests the Government to indicate:

- the exact terms of reference of the review committee;
- whether a timetable and a deadline have been set for the submission of its report; and
- whether employers' and workers' organisations will have an opportunity to submit representations to that committee.

The Committee strongly hopes this latest initiative will be followed in the near future by implementing legislation along the lines it has been suggesting for many years and urges the Government to indicate in its next report the measures taken to bring its legislation into conformity with the Convention.

In addition, the Committee notes the communication dated 7 November 1990 of the Staff Association of the Central Bank of Trinidad and Tobago relating to the insufficient observance of the Convention in this sector, and requests the Government to supply its comments and observations in this regard.

Tunisia (ratification: 1957)

1. In reply to its request for information on the normalisation of trade union life, the Committee notes with interest that the work of the National Trade Union Commission that is responsible for renewing basic trade union structures, has been completed, and that in April 1989 an extraordinary congress of the UGTT was held for the election of an executive board that includes the various trade union tendencies. Furthermore, the property of the UGTT has been returned to it and many trade unionists have benefited from the new Amnesty Act No. 89-63 of 3 July 1989.

2. With regard to the revision of the Labour Code, which envisages replacing the concepts of "national interest" and "vital interest of the nation" by the concept of essential services, the Committee notes with interest that, according to the Government's report, referral to binding arbitration (sections 384 to 386) and the procedure of requisitioning striking workers (section 389) would only be carried out in the event of a strike in essential services. The Committee trusts that the concept of essential services in which strikes can be restricted and even prohibited will be confined to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee also notes, again from the Government's report, that the requirement of the prior authorisation of the central trade union organisation for the calling of a strike (section 376bis) will be retained and will not be replaced by the obligation to obtain a majority vote of all the workers in an enterprise, which had been mentioned in one of the Government's previous reports, and that the maintenance of this system is desired by the UGTT and the UTICA (Tunisian Union of Traders and Artisans).

The Committee points out that this provision is such as to prejudice the right of trade union organisations, at whatever level, to call a strike to defend the occupational interests of their members. However, if such is the desire of the workers, this matter should be decided not by legislative means, but by the statutes adopted by the first-level trade union organisations concerned. In this connection, the Committee recalls that under the terms of Article 8(2) of the Convention, the law of the land shall not be such as to impair the guarantees provided for in this Convention.

The Committee trusts that the Labour Code, as amended, will be adopted in the near future and that account will be taken of its

comments on the proposed amendments. The Committee requests the Government to supply full information on the progress made in bringing its legislation into full conformity with the Convention.

Ukrainian SSR (ratification: 1956)

With reference to its previous comments, the Committee notes with satisfaction that section 6 of the Constitution of the Ukrainian Republic, which had set out the leading role of the Communist Party over mass organisations, including trade unions, has been repealed and that section 7, as amended, enshrines the principle of political pluralism.

The Committee also notes with interest that, in October 1990, the first Congress of the new Federation of Independent Ukrainian Trade Unions was held, during which a Charter was adopted which lays down the principle of the independence of trade unions with regard to state and political authorities and recognises the right of the trade unions of the Ukrainian SSR freely to join or leave the Federation. It also notes that a Bill concerning the trade unions of the Ukrainian SSR is currently being examined by the specialised committees of the Supreme Soviet of the Ukrainian SSR.

The Committee requests the Government to supply copies of these texts.

Finally, with reference to section 5 of the Order of the Supreme Soviet of the USSR on the coming into force of the USSR Act concerning trade unions of 10 December 1990, which, as the Committee of Experts has indicated in its comments to the Government of the USSR on this Convention, opens the way to trade union pluralism, the Committee notes that the supreme bodies of the Republics of the Union are recommended to align the legislation of their Republic with the provisions of the Act.

The Committee requests the Government of the Ukrainian SSR to supply information on the measures that have been taken under this provision in order to eliminate any ambiguity which may persist in the legislation of the Republic as regards the possibility of genuine trade union pluralism and to supply the relevant texts.

The Committee refers to the direct request it is addressing to the Government of the USSR on the Law of the Union of Soviet Socialist Republics on the settlement of collective labour conflicts, dated 9 October 1989.

USSR (ratification: 1956)

With reference to the comments it has been making for many years, the Committee notes with satisfaction the modifications introduced into the legislation regarding the leading role of the Communist Party, the possibility of trade union pluralism and the independence of trade unions, and the right of workers to resort to strikes to defend their interests.

1. The Committee notes in particular that section 6 of the Constitution of the USSR which laid down the leading role of the

Communist Party over mass organisations, including trade unions, has been amended by the Law of the USSR adopted on 14 March 1990 and that, in accordance with the new wording of this provision, the Party participates in the development of Soviet state policy along with other political parties, trade unions, youth organisations and other public organisations.

2. The Committee also notes that the Law of the USSR on public associations of 16 October 1990 and the Law of the USSR on trade unions, their rights and the guarantees of their activities, of 10 December 1990 recognise the possibility of trade union pluralism. It notes in particular that section 2 of the Law on trade unions guarantees the right of workers, without any distinction, to establish voluntarily and without prior authorisation, unions of their choice, and to join trade unions, provided that they observe the statutes of the unions. It also notes that section 3 of the same Law provides that trade unions shall enjoy full independence in drafting and adopting their statutes, determining their structure, electing their officers, organising their activities, holding their meetings, conferences, plenary sessions and congresses.

3. Lastly, the Committee notes that the Law of the USSR on the settlement of collective labour disputes of 9 October 1990 recognises the right of workers, in certain circumstances, to resort to strikes to defend their occupational interests.

Furthermore, the Committee notes that the Order of the Supreme Soviet of the USSR concerning the entry into force of the Law of the USSR on trade unions provides that the Government of the USSR, in the course of the first half of 1991, shall align its decisions with the provisions of the Law of the USSR on trade unions and shall take measures for the review or abolition by the Ministries, State Committees and Government Directorates of the USSR of all the labour statutes, particularly any instructions which are contrary to this Law.

The Committee recalls that, in its previous comments, it drew the Government's attention to the provisions of the national legislation which established the pre-eminence of the local factory or works trade union committee for the representation of workers. It had pointed out that these provisions precluded the emergence of trade union organisations outside the existing trade union structure (Labour Code of 1971, Decree of the Presidium of the Supreme Soviet issuing regulations respecting the rights of the local factory or works trade union committee, of 27 September 1971).

Furthermore, the Committee notes that the Law of the USSR on the settlement of collective labour disputes of 9 October 1990 still refers to the works trade union committee as the only competent trade union body for the settlement of collective labour disputes.

The Committee therefore trusts that, in accordance with the above-mentioned Order of the Supreme Soviet, all the provisions of the national legislation will be amended so as to remove any legal ambiguity as to the possibility of genuine trade union pluralism and asks the Government to provide information on progress made in this respect.

The Committee is addressing a direct request to the Government for information on other points.

United Kingdom (ratification: 1949)

1. The Committee notes the Government's report. It also notes: (i) the discussion which took place in the Conference Committee in 1989; (ii) the comments of the Trades Union Congress (TUC) in a number of communications in 1989 and 1990; (iii) the further comments of the Committee on Freedom of Association in relation to Case No. 1261 (275th Report of the Committee, November 1990, paragraph 11); and (iv) the conclusions of the Committee on Freedom of Association in Case No. 1540 (277th Report of the Committee, February-March 1991, paragraphs 47 to 98).

2. Dismissal of workers at Government
Communications Headquarters (GCHQ)

By its communications of 21 December 1989 and 14 June 1990 the TUC states that, following the discussion in the Conference Committee in 1989, it had written to the Prime Minister indicating that the trade unions would adopt a constructive approach to negotiations in relation to the GCHQ issue so that the Government could honour its commitments under Convention No. 87 and at the same time meet its requirements regarding the maintenance of services at GCHQ. According to the TUC, the Prime Minister did not make any response to the proposal that discussions should be reopened as suggested by the Committee of Experts and the Conference Committee.

In its report the Government reiterates its view that the provisions of Convention No. 87 must be read subject to those of Convention No. 151 and that the work performed by civilian staff at GCHQ falls within the "spirit" of the "armed forces exemption" in Article 9 of Convention No. 87.

As concerns the Committee's suggestion that it should undertake renewed negotiations with the relevant unions, the Government states that it remains unconvinced that to do so would serve any useful purpose. It points out that discussions were held immediately after the Government's announcement in January 1984 that workers at GCHQ were no longer to be permitted to be members of national trade unions. In the course of those discussions the unions had urged that a "no disruption agreement" would provide adequate safeguards in relation to continuity of service at GCHQ. These proposals were given very careful consideration by the Government, but had to be rejected as they did not provide sufficient guarantee that conflicting pressures would not produce difficulties in the future. This conclusion was supported by the fact that the draft agreement submitted by the Council of Civil Service Unions was subsequently repudiated by two of the main unions concerned because they were not prepared to contemplate the conclusion of a "no-strike agreement" at GCHQ. The Government acknowledges that the unions have subsequently indicated that they might change their position on this point. According to the Government, this possibility itself supports its position in relation to the futility of reopening discussions on this matter.

The Government goes on to point out that employees at GCHQ are permitted to join the Government Communications Staff Federation

(GCSF), and that over 50 per cent of them have in fact done so. In its communications of 21 December 1989 and 14 June 1990 the TUC points out that the Certification Officer (who is an independent statutory officer responsible for certain administrative matters relating to trade unions and employers' associations) had declined to issue the GCSF with a certificate of independence. According to the TUC, this decision underlines the fact that employees at GCHQ are denied even the basic right to belong to an independent trade union.

The Government states that this decision, which is presently under appeal, does not mean that the GCSF is not a "trade union". On the contrary, it is entered on a statutory "list" of trade unions but it is true that the union and its members do not enjoy certain statutory rights in relation to matters such as occupational health and safety, consultation in advance of redundancies, etc. However, according to the Government, management at GCHQ in practice extends to the GCSF facilities which are "at least equivalent" to almost all of these statutory entitlements.

The Committee can only express its regret at the apparent lack of progress in relation to this matter which was first considered by it in 1985. It remains of the opinion that, under the legislation presently in force, workers at GCHQ cannot be regarded as members of the "armed forces" for purposes of the application of Article 9 of the Convention. The Committee notes that attempts to obtain a "no-strike" agreement in 1984 were unsuccessful. Nevertheless, recalling that workers whose functions relate to security matters would fall into the category of those in respect of whom it is permissible to curtail the right to strike, the Committee considers that these workers should not be denied the right to belong to the organisations of their own choosing as guaranteed by Article 2 of the Convention.

The Committee notes that more than 50 per cent of workers at GCHQ have elected to join a body which possesses some, but not all, of the characteristics of a trade union under British law and which is treated by management in the same manner as if it were a fully-fledged trade union. The fact that workers at GCHQ are permitted to join this organisation, but no other, seems to indicate that the Government does not object to trade union membership per se among those workers, but rather that it has continuing objections to membership of certain unions.

Recalling that it is now more than six years since the Government last held formal discussions with the unions on this matter, and noting the stated preparedness of the TUC to adopt a positive approach to renewed negotiations, the Committee considers that the time is right for a resumption of dialogue; accordingly, it again urges the Government to reconsider its position in relation to the reopening of discussions with public service unions with a view to determining whether it might be possible to arrive at satisfactory arrangements in relation to the maintenance of an appropriate level of service at GCHQ at all times.

3. Article 3 of the Convention

(a) General

In its 1989 observation the Committee identified a number of incompatibilities between the Employment Acts of 1980, 1982 and 1988 and the Trade Union Act of 1984 and the requirements of the Convention. These incompatibilities related to: (i) the concept of "unjustifiable discipline" as set out in section 3 of the 1988 Act; (ii) section 8 of the 1988 Act concerning the indemnification of trade union members and officials; (iii) the erosion of legislative protection against civil liability for industrial action; and (iv) dismissals and disciplinary action in connection with participation in strikes and other industrial action. The Committee also noted: (a) that certain provisions which it considered not to be incompatible with the Convention - notably those relating to the Commissioner for the Rights of Trade Union Members - could be applied in a manner which was not in conformity with the letter or spirit of the Convention; and (b) the volume and complexity of legislative change since 1980.

The Committee notes the observations of the Government on these points.

(b) "Unjustifiable discipline" and section 3 of the 1988 Act

The Committee considered that section 3(3)(c) of the 1988 Act, which states that trade unions may not discipline members who, in good faith, assert that their union has breached its own rules or the law of the land, was not incompatible with Article 3 of the Convention. It had, however, concluded that those parts of section 3 which deprive trade unions of the right to discipline their members who refuse to participate in lawful strikes and other industrial action or who seek to persuade fellow members to refuse to participate in such action, constituted an impermissible incursion upon the guarantees provided by Article 3.

In its report, the Government states that it finds it difficult to understand why the Committee considers section 3(3)(c) to be compatible with the Convention, but that the provisions relating to strikes and other industrial action are not. In the opinion of the Government the purpose of section 3 is to ensure that trade unions respect the views of individual members and allow them the freedom to make up their own minds and follow their own consciences without the fear of disciplinary action by their union.

The Committee notes the observations of the Government in relation to this matter. It remains of the view, however, that the provisions of section 3 prohibiting unions from disciplining their members who refuse to take part in lawful industrial action restricts the capacity of organisations of workers to draw up their constitutions and rules as guaranteed by Article 3 of the Convention. The Committee considers that it should be for the members of organisations themselves to decide what the rules of those organisations are to be. The Committee agrees that the guarantees provided by Article 3 are conditioned by respect for fundamental human

rights, such as the right not to be subjected to discriminatory treatment on grounds of race or sex. However, the Committee considers that it is not compatible with the Convention to prevent the members of a trade union from freely adopting rules which provide for the imposition of disciplinary sanctions upon members of the union who refuse to comply with or seek to subvert democratic decisions by members of the union to take lawful industrial action. The Committee therefore requests the Government to revise its legislation so as to permit unions and their members to adopt and implement such rules if they so choose.

(c) Indemnification of union members
and officials

Section 8 of the 1988 Act makes it unlawful for the property of any trade union to be applied so as to indemnify any individual in respect of any penalty which may be imposed upon that individual for an offence or for contempt of court, and provides for the recovery by the union of any sums improperly paid by way of such indemnity. In its 1989 observation the Committee concluded that this provision appeared to be incompatible with Article 3 of the Convention.

In its report the Government states that it considers that it is wrong in principle for a trade union to be able, with impunity, to use its funds to indemnify any individual in respect of a penalty imposed by a court for a criminal act or for contempt of court. It also states that nothing in section 8 involves interference by the public authorities in the capacity of trade unions to draw up their constitutions and rules and to organise their administration and activities as they see fit.

The Committee recognises that section 8 does not expressly state that unions may not adopt rules to this effect, but it appears to achieve the same effect by virtue of the fact that any payments made in accordance with any such rule may be recovered in accordance with subsections (2) and (3) of section 8. Accordingly, the Committee considers that the legislation should be amended so as to allow the adoption and implementation of rules which permit the indemnification of members or officials in respect of legal liabilities they may have incurred on behalf of the union.

(d) Immunities in respect of civil liability
for strikes and other industrial action

In its 1989 observation the Committee pointed out that amendments which had been introduced since 1980 had the effect of removing protection against common law liability from certain forms of industrial action in respect of which it considered that protection ought to be available. In particular: (i) it was now virtually impossible for workers and unions lawfully to engage in any form of boycott activity or sympathetic action against parties not directly involved in a given dispute; (ii) the protections no longer applied to situations where unions and their members had "mixed" industrial, social and political motives for what they did; (iii) the definition of "trade dispute" was such that it was impossible for workers and

unions to take effective industrial action in situations where the "real" employer with whom they were in dispute took refuge behind one or more subsidiary companies which were technically the "employer" of the workers concerned, but which lacked the capacity to take decisions which could effectively resolve the dispute; and (iv) there was very little scope for workers to take industrial action in the United Kingdom in support of workers outside that country, or to protest the social or racial policies of a government with which the United Kingdom had trade or economic links. Accordingly, the Committee asked the Government to introduce amendments which would enable workers lawfully to take industrial action against their "real" employer and which accorded adequate protection to the right to engage in other legitimate forms of industrial action such as protest and sympathy strikes.

In its report the Government states that the Committee's observation fails to take adequate account of the differences in British law as it applies to the position of persons taking industrial action as opposed to the position of those who call for or organise such action. It points out, for example, that section 16 of the Trade Union and Labour Relations Act, 1974 prevents courts from ordering workers to work or attend for work in any circumstances, whilst other provisions provide legislative protection for those who organise industrial action in contemplation or furtherance of a trade dispute or who call upon workers of an employer other than that directly involved in the dispute not to cross a lawfully conducted picket-line. The Government also considers that it is far from clear exactly what amendments to current legislation the Committee considers necessary in order to ensure compatibility with the Convention.

The Committee recognises that British legislation provides a significant measure of protection against common law liability for individuals and trade unions who organise or participate in certain forms of industrial action, and that workers cannot be ordered to return to, or remain at, work. However, it remains of the view that some of the legislative changes which have been introduced since 1980 have had the effect of withdrawing statutory protection from various forms of industrial action which, in its opinion, ought not to attract legal liability. It must, therefore, repeat its request that the Government introduce legislation, following consultation with the Office if need be, to enable workers and their unions to engage in industrial action in the circumstances discussed in detail in the Committee's 1989 observation, and summarised above.

In communications of 19 January and 21 December 1990, the TUC states that the Employment Act, 1990 is not in conformity with the Convention by virtue of the fact that it further narrows the range of situations in which workers may lawfully take secondary action. The Government states that since this measure received the Royal Assent outside the period covered by its report, it would not be appropriate to respond at this time to particular points which relate to it. The Committee asks the Government to supply full particulars as to the purpose and effect of this measure in its next report.

(e) Dismissals in connection with industrial action

In its 1989 observation the Committee had asked the Government to introduce legislative protection against dismissal and other forms of discriminatory treatment in connection with strikes and other industrial action so as to bring law and practice into conformity with the requirements of the Convention. The Committee notes that the Committee on Freedom of Association reached the same conclusion in Case No. 1540.

In its report the Government points to a number of features of British industrial relations law and practice which in its opinion make it unnecessary or inappropriate to introduce legislative measures such as those requested by the Committee in its previous observation.

Whilst noting the views expressed by the Government in its report, and in its observations to the Committee on Freedom of Association in relation to Case No. 1540, the Committee remains convinced that conformity with the Convention requires that workers should enjoy effective legislative protection against dismissal or other disciplinary action in respect of their participation or proposed participation in strikes or other forms of industrial action.

As concerns the effects of the Employment Act, 1990, in this context, the Committee notes that in its decision in Case No. 1540 the Committee on Freedom of Association concluded that section 62A of the Employment Protection (Consolidation) Act - which was inserted by section 9 of the 1990 Act - "does appear to narrow the scope of protections which the Committee has already determined to be inadequate in terms of respect for the principles of freedom of association", and called upon the Government to introduce suitable legislative amendments to bring section 62A into conformity with those principles (277th Report, paragraph 96). The present Committee endorses the conclusions of the Committee on Freedom of Association in this respect.

(f) Complexity of the legislation

In its 1989 observation the Committee expressed its concern at the volume and complexity of legislative change in relation to the matters covered by the Convention since 1980, and suggested that some reconsideration of the form and content of the legislation would be advantageous. The Committee notes that since that time the Employment Acts of 1989 and 1990 have affected further change in this area.

In its report the Government considers that the Committee underestimates the advantages in the British context of utilising the familiar framework of the common law, and the problems which could follow from an attempt to adopt a different approach to the implementation of the guarantees embodied in the Convention to that which has consistently been pursued over the years. The Government attaches to its report a number of examples of free explanatory booklets which explain the relevant legislation as it applies to employers, workers and unions, in order to show that the law is in fact readily intelligible to those whom it most directly affects. It also indicates that it keeps under active review the possibility of

introducing consolidating legislation which would bring together in one Act all of the provisions relating to industrial relations and trade unions which are at present to be found in a number of different pieces of legislation. It states that it would be willing to bring the necessary legislation forward when resources and the legislative timetable permit, but points out that such a measure would not make any substantive changes to the relevant law.

The Committee notes with interest that the Government is prepared to consider the introduction of a consolidation measure when time and resources permit. Whilst appreciating that such measures do not normally effect substantive legal change, the Committee nevertheless considers that the Government should use the occasion of such a consolidation to bring its law and practice fully into conformity with the requirements of the Convention, and asks it to report on any measures taken in this regard.

Venezuela (ratification: 1982)

The Committee takes note of the Government's report and of the content of the new Labour Act of 27 November 1990.

The Committee notes with satisfaction that the new Labour Act contains major improvements that the Committee suggested when it examined the former Labour Act and the new Labour Bill. The improvements are the following:

- reduction of the number of workers required to establish enterprise unions (20 under the new Act) and occupational unions (40 under the new Act);
- removal from the Labour Act of the provision which required that trade union officers complete two consecutive mandates to miss at least one mandate before standing for re-election;
- removal from the former Labour Act of the provision under which workers' organisations were subject in certain cases to administrative dissolution or suspension;
- insertion in the new Labour Act (section 426) of a provision containing a restrictive list of the grounds on which the labour inspector concerned can refuse to register a union (such refusals may be appealed under the law);
- amendment to the provision of the former Labour Act and Labour Bill which obliged trade unions to provide the competent officials with all the information they requested; under the new Labour Act this obligation applies only to matters concerning the legal obligations of the trade union (section 430);
- insertion in the new Labour Act (section 442) of provisions enabling 10 per cent of the members of a trade union to file a demand with the competent trade union authorities and subsequently, should the need arise, with the State Auditor, for an examination of the accounts or of a specific operation.

Some of the above points which had been contained in the Labour Bill were the subject of comments by the Single Workers' Central of Venezuela (CUTV).

The Committee is addressing a direct request to the Government concerning the number of self-employed workers required for the

creation of a trade union, the right to strike and the right of foreigners to hold trade union office.

Republic of Yemen (ratification: 1976)

North Yemen

Referring to its general observation the Committee notes that the Government's report has not been received. It recalls its previous observation which read as follows:

For several years, the Committee has been noting a number of discrepancies between the legislation and the Convention, concerning the following points:

Article 2 of the Convention

- The exclusion of public servants, employees and manual workers employed in the state administration and certain agricultural workers from the scope of the Labour Code (section 3).
- Prior authorisation for the establishment of a trade union (section 154 of the Labour Code; section 57 of the Regulations respecting the model statutes of the general trade union of manual and non-manual employees).
- Single trade union structure (sections 129, 138 and 139 of the Labour Code and sections 5(h), 41, 42, 43 and 47(a) of the Regulations).
- The high number of workers required to establish trade union bodies: 50 for a trade union, 50 for a trade union committee and 100 for a general trade union (sections 21, 137, 138 and 139 of the Labour Code and section 55 of the Regulations).

Article 3 of the Convention

- Interference by the public authorities in: (a) the financial administration of trade unions (sections 132(2) and (4) and 133(13) and (14) of the Labour Code); (b) trade union activities (section 145(2) of the Labour Code and section 34 of the Regulations); (c) the formulation of their constitutions and rules (section 150 of the Labour Code and section 62 of the Regulations).
- The prohibition on political activities (section 132 of the Labour Code) and restrictions on the activities of trade unions to support their claims (section 16 of Ministerial Order No. 42 of 1975 concerning the procedures for the settlement of industrial disputes).

Article 4 of the Convention

- The dissolution of a trade union by administrative authority (section 157 of the Labour Code).

The right to organise of public servants and certain agricultural workers

With regard to public servants employed in the administration of the State who are excluded from the scope of the Labour Code, the Committee notes with interest that Act No. 49 of 1977 concerning the terms and conditions of employment of

state employees has been amended by Act No. 1 of 1988 respecting the public service and that trade union organisations exist in all provinces. In this connection, the Committee notes that trade unions have been established in various public establishments.

The Committee recalls that the Convention applies to all workers, without distinction whatsoever, with the exception of the armed forces and the police (Article 9 of the Convention) and requests the Government to indicate whether the right to organise is recognised for all public servants, particularly those engaged in the administration of the State and the staff of teaching establishments. It also requests the Government to continue supplying information on the development of the unionisation process by indicating, in particular, the number of workers and sectors covered by this process, and it requests it to supply the text of Act No. 1 of 1988.

With regard to the agricultural workers who are excluded from the scope of the Labour Code, the Committee notes that, according to the Government, they are organised into associations with the role of supplying their members with the assistance that they need, while at the same time seeking to further the interests of the national economy, in accordance with Act No. 11 of 1963 respecting associations.

The Committee requests the Government to indicate the legislative provisions which guarantee agricultural workers the right to organise and requests it to supply the text of Act No. 11 of 1963 and the text of the by-laws of the agricultural workers' associations mentioned by the Government with its next report.

Prior authorisation for the establishment of a trade union

For several years the Committee has been noting that the establishment of a trade union is subject to obtaining authorisation from the competent authorities, whose role is, among other things, to ascertain the allegiances of the persons submitting the application and make sure that they have not been accused of jeopardising the security of State or sentenced for dishonourable acts, in accordance with section 154 of the Labour Code.

The Committee also notes that section 57 of the Regulations is more restrictive than the Labour Code, since the examination of the application deals with whether the applicant has been sentenced for a crime or a dishonourable offence.

The Committee requests the Government to indicate under which provisions of the Labour Code and the Regulations the authorities make their decision. It also requests the Government to indicate the offences covered by section 57 of the Regulations.

The unitary structure of the trade union organisation

In its previous comments, the Committee noted that the trade union organisation set up by the legislation resulted in a single trade union structure by providing for: the existence of only one trade union committee per occupation and per enterprise and

for only one branch of a general union per occupation and per town, gathered together in one federation (sections 129, 138, 139 and 158 of the Labour Code and sections 41 and 43 of the Regulations); the establishment of only one federation in the Republic (section 5(h) of the Regulations); and the supervision of base-level trade unions by higher trade union bodies (sections 42 and 47(a) of the Regulations). It also noted that authorisation for the creation of a trade union committee was only given if there were at least 50 workers in the enterprise or in the same occupation and that this figure was raised to 100 for the establishment of a trade union (sections 2, 137 and 138 of the Labour Code and section 55 of the Regulations).

While it is not for the Committee to favour either trade union unity or trade union pluralism, the principle set forth in Article 2 of the Convention, under which all workers shall have the right to establish and join organisations of their own choosing, implies that trade union pluralism should be possible. In the Committee's opinion, by only permitting the establishment of one trade union under the above conditions, the legislation does not observe this principle.

The Committee therefore requests the Government to take measures in order to guarantee workers the right, should they so wish, to establish trade unions outside the existing trade union structure.

Interference by the public authorities

For several years, the Committee has been noting that the legislation empowers the public authorities to intervene in the activities of trade unions, particularly by making a number of financial operations subject to prior authorisation by the Minister (section 132(2), (4) and (6) of the Labour Code), by imposing the allocation of trade unions' funds for certain items of expenditure (section 133(13) and (14) of the Labour Code), by providing for the supervision of the constituent assemblies of trade unions by a representative of the labour administration (section 145(2) of the Labour Code and section 34 of the Regulations) and by empowering the labour administration to amend at any time the rules of a trade union (section 150 of the Labour Code and section 62 of the Regulations).

The Committee points out that under the terms of Article 3 of the Convention, workers' organisations have the right to organise their administration, elect their representatives in full freedom and draw up their constitutions and rules without the public authorities interfering to restrict this right or impede the lawful exercise thereof.

The Committee therefore requests the Government to amend the above provisions in order to bring the legislation into conformity with the Convention in this respect.

Political activities and restrictions on trade union action to support their claims

In its previous comments, the Committee noted that trade unions were not authorised to undertake political activities (section 132 of the Labour Code) and that by virtue of section 16 of Ministerial Order No. 42 of 1975, any action to support a

claim could be stopped if, in the Minister's opinion the dispute was becoming important.

In its report, the Government emphasises that the workers and their trade unions participate in the various political activities of the country on the same basis as the rest of the population. It also indicates that Order No. 42 of 1975 has been amended by Ministerial Order No. 4 of 1986 respecting the procedural rules before arbitration committees, in such a way that these orders, read in conjunction with the Labour Code, guarantee all the rights and obligations of the social partners.

While noting this information, the Committee points out that the right of trade union organisations to organise their activities and formulate their programmes implies that these same organisations can turn their attention to problems of general interest, and therefore of a political nature in the widest sense of the term, and publicly demonstrate their opinion concerning economic and social policy with the purpose of defending the interests of their members. In this context the Committee also points out that the right to call a strike is one of the essential means which ought to be available to these organisations to defend the interests of their members (Article 10 of the Convention), and that the official disputes settlements procedure must not be such as to limit the exercise of the right to strike.

The Committee therefore requests the Government to supply information on the rights and duties of workers' organisations in relation to the right to strike. It also requests the Government to supply a copy of Ministerial Order No. 4 of 1986.

Dissolution by administrative authority

For several years, the Committee has been noting that section 157 of the Labour Code empowers the Council of Ministers to dissolve a trade union, contrary to the terms of Article 4 of the Convention.

The Committee points out that the dissolution of a trade union is an extremely serious step which must therefore be accompanied by the appropriate legal protection. Furthermore, in accordance with the principles set forth in Article 4 under which workers' organisations cannot be dissolved by administrative authority, it should be possible to appeal to the judicial authorities before a decision taken by the administrative authority takes effect and the judicial authorities should also be competent to examine the basis of the case and study the grounds for the dissolution or suspension of an organisation.

The Committee therefore requests the Government to take the necessary steps to give effect to the Convention on this point.

The Committee trusts that the legislative revision that is taking place will take all these points into consideration and asks the Government to supply the relevant texts in its next report.

Yugoslavia (ratification: 1958)

The Committee notes the comments, dated 5 February 1991, submitted by the Union of Independent Trade Unions of Kosovo, alleging violations, inter alia, of Conventions Nos. 87 and 98. These comments report: (a) the refusal of the Yugoslavian authorities to give effect to the Union's application for registration; (b) the refusal of the authorities concerned to recognise the Union as an interested party in the collective bargaining process; (c) the dismissal of many workers and trade union officers who are members of the Union by reason of their participation in a strike and their refusal to be members of the Serbian Trade Union.

The communication of the Union of Independent Trade Unions of Kosovo has been transmitted to the Government for its observations. The Committee will examine them in the light of the Government's observations at its next session.

[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: Algeria, Argentina, Australia, Bangladesh, Barbados, Benin, Bolivia, Bulgaria, Canada, Central African Republic, Chad, Colombia, Comoros, Costa Rica, Djibouti, Dominica, Egypt, Finland, Greece, Guinea, Guyana, Hungary, Jamaica, Madagascar, Mali, Mexico, Niger, Pakistan, Peru, Philippines, Portugal, Rwanda, Saint Lucia, Senegal, Spain, Swaziland, Switzerland, Togo, USSR, Venezuela, Republic of Yemen (North Yemen).

Information supplied by Nigeria, San Marino, in answer to direct requests has been noted by the Committee.

Convention No. 88: Employment Service, 1948Sierra Leone (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 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.

United Republic of Tanzania (ratification: 1962)

Tanganyika

1. The Committee takes note of the information provided by the Government in reply to its earlier comments. It notes in particular that the Government is still committed to consolidating the employment functions of the Labour Division. It also notes that after consultation with the social partners it has been agreed that a draft policy on employment development centres should embody all the employment services' functions provided for in the Convention.

2. According to the Government's report, the Human Resources Development Act No. 6 of 1983 establishes the framework for the operation of employment service on the mainland of the United Republic of Tanzania. The information supplied indicates that several requirements of the Convention are implemented to a certain extent, with difficulties due to the economic situation. At present, the main focus of employment offices is in the informal sector which employs a high percentage of the labour force.

3. Having noted this information, the Committee expresses the hope that the Government will continue to supply information on measures taken or envisaged to ensure full application of Article 6 of the Convention (the activities to be performed in order to carry out effectively the employment service's functions provided for in this Article), Article 7 (measures to be taken to facilitate within the various employment offices specialisation by occupations and by industries, and to meet adequately the needs of particular categories of applicants for employment, such as disabled persons) and Article 8 (special arrangements for juveniles made within the framework of the employment and vocational guidance services).

4. The Committee would also be grateful if the Government would continue to describe any consultations taking place with representatives of employers and workers, either in the 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).

5. The Committee notes the Government's statement to the effect that it has prepared, with the assistance of the ILO, UNDP and NGOs, programmes for youth, mainly for the self-employed in both rural and urban areas. It was also informed that an ILO project on labour market information and labour studies programme is now under way in the United Republic of Tanzania, which concerns, among other things, consultancy in labour administration, training and establishment of employment promotion offices. The Committee would be grateful if the Government would indicate in due time the action taken as a result.

6. Finally, the Committee once again expresses its hope that the Government will provide statistical information requested in conformity with point IV of the report form.

Zaire (ratification: 1969)

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

Article 3 of the Convention. The Committee notes with interest that the Department of Employment and Social Insurance is progressively continuing to establish employment offices in the regions, and that three employment offices have been opened respectively in Kinshasa, Lubumbashi and Kisangani. It also notes the Government's statement that this programme is being continued in the eight other regions of the country. The Committee hopes that in the near future the Government will be able to report that new progress has been achieved in the development of a network of employment offices, in accordance with this Article of the Convention.

Articles 4 and 5. The Committee notes that the draft ordinance, establishing the new National Employment Service, was submitted for examination by the Executive Council and that representatives of employers and workers took an active part in all the discussions on the organisation and discussion of the National Employment Service at the 21st Session of the National Employment Council. The Committee hopes that the Government will supply additional information in its next report in order to give fuller details on the arrangements that have been made, in accordance with these provisions of the Convention, for the co-operation of representatives of employers and workers in the organisation and operation of the employment service and the development of the policy of this service.

Application in practice and other information required by the report form. The Committee notes the Government's concern to improve the collection of statistics related to the application of the Convention. It hopes that the Government will be able to furnish in due time, the statistical information that has been published (particularly concerning the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment), and any relevant general appreciation of the manner in which the Convention is applied, in accordance with points IV and VI of the report form. Please also supply the ILO with the text of the above ordinance once it has been adopted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Denmark, Djibouti, Germany, Lebanon, Libyan Arab Jamahiriya, Malaysia.

Convention No. 89: Night Work (Women) (Revised), 1948Bahrain (ratification: 1981)

Further to its previous comments, the Committee notes with satisfaction the adoption of the Civil Service Regulation 301, of 23 October 1988, which extends the application of the Convention to industrial enterprises in the public sector.

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 from the Government's last report that the draft law which had been formulated for this purpose following the direct contacts which took place in 1976 was to be submitted to the legislature as of 16 August 1990. The Committee hopes that the proposed modifications will be adopted in the near future so as to give full effect to the Convention. The Committee requests the Government to indicate all progress that has been made in its next report.

Ghana (ratification: 1965)

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 its comments for several years. It notes from the Government's last report that the National Advisory Committee on Labour will examine the possibility of amending the legislation in question in order to bring it into conformity with the provisions of the Convention. The Committee hopes that the necessary measures will be taken in the near future and requests the Government to report any progress accomplished in this respect.

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Belgium, Kuwait, Lebanon, Swaziland, Yugoslavia.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

Requests regarding certain points are being addressed directly to the following States: India, Lebanon, Swaziland.

Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949

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

Convention No. 92: Accommodation of Crews (Revised), 1949

Liberia (ratification: 1977)

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

The Committee notes that, 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.

* * *

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

Convention No. 94: Labour Clauses (Public Contracts), 1949

Brazil (ratification: 1965)

The Committee notes the explanations in the Government's report, those given in the Conference Committee in 1990, and the discussion which that Committee had.

The Government indicated in its report and in the Conference Committee that the application of the Convention is guaranteed by the national Constitution, by labour legislation and by collective agreements. In fact, the clauses deriving from collective bargaining in the widest sense are said to benefit all workers of the same category, whether they are in private undertakings or public administration. The Committee must again stress that it is not

sufficient to ensure the application of the Convention that national labour legislation applies to all workers - as it does in Brazil - but that the Convention requires all contracts with a public authority (as defined in Article 1(1)(c) of the Convention) to include a clause guaranteeing that all workers covered by the contract receive wages and conditions of employment not less favourable than those established for work of the same kind, by any of the methods laid down in Article 2(1) and (2). There is no such clause in public contracts in Brazil, and this is not in conformity with the Convention.

The Government has however repeatedly stated that there is no need to comply formally with the Convention for the reasons given above. The Committee observes that the methods laid down in Article 2 for determining the conditions of work covered by labour clauses in public contracts include legislation and collective agreements. Since the Government indicates that clauses in collective agreements are applied to all workers, the Committee would be glad if it would indicate how it is ensured that collective agreements are applicable to all workers, including those not covered by them.

The Committee again expresses the hope that the Government will take account of these considerations when revising the legislation to apply the Convention. It again suggests that the Government consider consulting the Office in drafting legislation to apply the Convention. It hopes the Government will supply information on the steps taken.

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

Cameroon (ratification: 1962)

The Committee takes note of the information contained in the Government's report to the effect that it will adopt the necessary measures to bring the legislation into conformity with the provisions of the Convention.

The Committee recalls that it suggested that the Government consider the possibility of requesting ILO assistance to adopt the necessary legislation to apply the Convention. The Committee asks the Government to continue providing information on the measures taken in this respect and hopes that the legislation necessary to apply the Convention will be adopted in the near future.

Central African Republic (ratification: 1964)

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

The Committee notes the information supplied by the Government in its most recent report to the effect that a supplement to Decrees Nos. 61/135 and 61/137 of 19 August 1961 is currently under study in order to take into account the Committee's suggestions. The Committee hopes that the Government will be able to adopt these regulations in the very near future.

In this connection, the Committee recalls that in accordance with the provisions of Article 2, paragraph 1, of the Convention, the contracts to which the Convention applies shall include clauses guaranteeing to the workers concerned working conditions, and not only wages, which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district.

With regard to the national collective agreement for public works and construction, the Committee would be grateful if the Government would send a copy of this agreement with its next report, since the copy referred to in its report has not arrived.

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

Ghana (ratification: 1961)

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 Committee's previous comments had been noted and will be discussed by the National Advisory Committee on Labour in due course. It recalls that measures to apply the Convention have been requested since the Convention's ratification, and that the previous report referred to the Government's intention to take into account the Committee's comments in codifying the national legislation in a two-year programme starting from January 1983. In these circumstances, the Committee can only raise the question once again, trusting that measures will be taken in the very near future to bring the legislation into conformity with the Convention with regard to the following points:

Article 2 of the Convention. The Committee hopes that the Government will take measures to include labour clauses in public contracts ensuring to the workers concerned wages, 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, industry or area concerned. The Committee trusts that the employers' and workers' organisations concerned will be consulted on terms of clauses.

Article 5. The Committee hopes that effect will also be given to the provisions of this Article (application of adequate sanctions and measures to enable the workers concerned to obtain the wages to which they are entitled).

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

Guinea (ratification: 1966)

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

The Committee recalls there are no specific regulations or legislation concerning public contracts. It further notes the information contained in the report to the effect that there is an increase in the number of public contracts, which makes legislation applying the Convention increasingly necessary. The Government also indicates that the establishment of a specialised office may imply that such regulations and legislation could be implemented in the near future. In this connection, the Committee recalls that under Article 2 of the Convention read in conjunction with Article 1(1)(c), public contracts concluded between the Government and private enterprises shall include clauses ensuring to the workers concerned under these contracts, wages and conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned. The Committee therefore hopes that the necessary steps will be taken in the near future to ensure the inclusion of these clauses in all public contracts, and consequently to give effect to the Convention.

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

Mauritania (ratification: 1963)

With reference to its previous comments, the Committee recalls that it requested the Government to take the necessary measures to ensure the application of the Convention, since Decree No. 75.147 of 6 May 1975 and Decree No. 80.182 of 23 July 1980 are not sufficient to give effect to the Convention.

The Committee points out that, under the relevant provisions of the above Decrees, the labour clauses to be included in public contracts awarded by public authorities are to be determined by ministerial or inter-ministerial order. The Committee notes the Government's indication in its last report that it will make every effort to take the appropriate measures to bring the national legislation into conformity with the provisions of the Convention as soon as possible. The Committee points out in this connection that, in its previous reports, the Government referred to certain draft decrees and orders which would bring the national legislation into harmony with this Convention. It also recalls that it has been requesting such measures since the ratification of the Convention in 1963. The Committee therefore hopes that the Government will be able to supply full information in its next report on the measures that have been taken in this respect.

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

Mauritius (ratification: 1969)

The Committee notes that the Government has instituted a Committee to review the 1975 Labour Act, and that that Committee's

attention will be drawn to the Committee of Experts' comments on this Convention.

The Committee recalls that, for a number of years, the Government has been indicating its intention to revise the 1975 labour legislation. The Committee therefore hopes that the Government will take all necessary steps to ensure that amendments to the Labour Act are adopted in the near future in order to give effect to the provisions of this Convention. In this connection, the Committee again recalls that when the Labour Act of 1975 was adopted it repealed the Labour Clauses in Public Contracts Ordinance of 1964. The Committee again suggests that the Government consider the possibility of taking the above Ordinance into account in the review of the Labour Act. The Committee asks the Government to indicate any progress made in this regard in its next report.

Philippines (ratification: 1953)

The Committee takes note of the Government's reply to its previous comments. The Committee notes the Government's indication that there has been a shift in the priorities of the legislature owing to national and international developments, with the result that there have been no positive developments with regard to the points raised by the Committee concerning the application of this Convention and particularly the provisions of Articles 1 and 2 of the Convention. The Committee hopes therefore that the Government will be able to take the necessary measures in the not too distant future to give effect to the Convention and that it will consult the workers' and employers' organisations concerned, as set out in Article 2, paragraph 3, of the Convention, when adopting these measures.

With regard to the Committee's request for the information requested under Point V of the report form, the Committee notes that, according to the Government, violations by contracting enterprises are acted upon by the Department of Labour and Employment. It also notes that the mechanism to monitor contracts referred to in the Convention, has not yet been established, although the Government indicates that, in 1981, a memorandum of agreement between the Department of Labour and Employment and the Department of Public Works and Highways was adopted to ensure strict implementation of the Convention in all contracts for public works projects or services. The Committee hopes that, in any event, the Government will be able to provide information on the number of contracts of the type covered by the Convention, the number of workers covered by such contracts and the number and nature of violations noted.

Rwanda (ratification: 1962)

The Committee notes that the Bill for a law to revise contracts awarded by the public authorities has not yet been adopted. The Committee recalls that it has been requesting the adoption of these measures since 1964 and that a Bill was submitted in 1983. The Committee once again hopes that the Government will take the necessary

measures for the enactment into law of this Bill in order to give effect to this Convention, on which it has been commenting for many years.

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

Zaire (ratification: 1961)

With reference to its previous comments, the Committee notes the Government's indication that, as it already stated in previous reports, it is engaged in efforts to harmonise its legislation with the provisions of this Convention. The Committee recalls that it has been commenting on the application of this Convention for many years; and that in 1976, at the Government's request, the International Labour Office sent a proposal for new provisions that could be incorporated into the existing legislation in order to give effect to the Convention. However, although the Government has stated on several occasions that it would adopt the necessary texts to give effect to the Convention, they have not yet been adopted. The Committee therefore hopes that the Government will make the necessary efforts to ensure that the text which is to give effect to the Convention and which the Government has been drafting since 1979, is adopted in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bahamas, Burundi, Costa Rica, Denmark, Djibouti, Egypt, Grenada, Guatemala, Iraq, Jamaica, Morocco, Panama, Saint Lucia, Somalia, Suriname, Syrian Arab Republic, Swaziland, United Republic of Tanzania, Turkey, Uganda.

Convention No. 95: Protection of Wages, 1949

Côte d'Ivoire (ratification: 1960)

With reference to its previous comments, the Committee recalls that it 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. The Government indicated that, in response to the above comments, 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 notes that the above ad hoc committee has not yet been able to commence work and that the workers concerned still refuse to submit the documents needed to check the claims that they are making, despite the intervention of their central trade union organisation.

The Committee hopes that the Government will inform the Committee of the measures taken to examine the claims of the workers concerned and it requests the Government to continue to supply information on the outcome of the measures that have been taken to resolve the demands of the workers concerned.

Dominican Republic (ratification: 1973)

The Committee notes the discussion in the Conference Committee in 1990 on the application of Conventions Nos. 95 and 105 and the Government's report. It also notes the comments on the application of Convention No. 95 made by the Independent Workers Confederation (CIT) in October 1990, a copy of which was transmitted to the Government so that it could make the observations that it considered appropriate. The Committee notes that the Government has not yet made observations in this respect.

The Committee also notes the report of the direct contacts mission which visited the country from 3 to 21 January 1991 at the request of the Government.

The Committee also refers to its comments under Convention No. 105.

A. Adoption of legislation to give effect to Convention No. 95

In the comments that the Committee has been making for a number of years, it has drawn attention to the need to adopt legislative measures to give effect to Articles 2, 3, 5, 6, 8 (paragraph 2), 10, 13 (paragraph 2), 14 and 15(b), of the Convention. The Committee notes that, with the few exceptions referred to below, the Government has not taken the measures that were requested. In paragraph 543 of the report that it made in 1983, the Commission of Inquiry on the employment of Haitian workers on the sugar plantations of the Dominican Republic also draws attention to the need for legislative changes 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 for employers to limit 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.

B. Protection of wages in sugar plantations

1. Measures to guarantee observance of the statutory minimum wage. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that all workers

employed in plantations are paid the statutory minimum wage, and it requested the Government to supply information on any adjustment of the minimum wage in agriculture and on the rates for the cutting and transport of sugar-cane.

The Committee notes that, in Resolution No. 2/90 of 28 September 1990, the National Wages Commission established for agricultural workers employed in any activity a minimum wage of RD\$24.00 for a working day of eight hours, which would be proportionally increased or decreased where the working day is longer or shorter than eight hours.

The Committee notes circular No. 007 of the State Sugar Board (CEA) on rates of pay for cultivating and harvesting for the 1990-91 sugar-cane harvest, which set the rate for cane-cutters at RD\$16.00 per tonne for unauthorised burnt cane with a bonus of RD\$2.00 per tonne for green cane, to be paid against the corresponding receipts, thereby raising the pay to RD\$18.00 per tonne.

The Committee notes with interest the increase in the above rates and the information contained in the report of the direct contacts mission that the new rates for the cutting and transport of sugar-cane improve the chances of a greater number of cane-cutters earning the statutory minimum wage, although it also notes that the increase, while significant, is lower than the increase in the cost of living.

The recommendations contained in paragraphs 533 to 536 of the report of the Commission of Inquiry set plantation administrations the task of guaranteeing the statutory minimum wage to all workers, irrespective of their output, for a working day of eight hours, with a proportional increase for longer hours of work, but without any deduction for periods in which workers who are employed on a regular basis are prevented from working as a result of factors which are not imputable to them. This would require the adoption of more uniform and regular working hours for cane-cutters, including the establishment of a reasonable limit on working hours.

The Committee notes that cane-cutters must cut a minimum of 1.5 tonnes of sugar-cane every day, at the rate of RD\$16.00 (the rate per tonne), in order to obtain the statutory minimum wage of RD\$24.00, as established for agricultural workers. Sources close to the workers and some of the workers who were consulted during the direct contacts mission stated that the output of cane-cutters depends largely on the quantity and quality of the cane that they are assigned to cut and the efficiency of the transporter in taking the cane to be weighed. Under normal conditions, a cane-cutter can achieve the output that is necessary to earn the minimum wage, although it is frequently the case, particularly in certain plantations, that daily output is decreased by restrictions on cutting that are imposed by the plantation, by the low quality of the cane, by environmental or health problems or by delays by the transporter in taking the cane to the point where it is weighed. Furthermore, cane-cutters are not given paid weekly rest days and therefore need to work all the days of the week. In certain cases the remuneration of cane-cutters is in fact the result of the work of various persons, partly because cane-cutters help each other to load the cane and send in one load the cane that has been cut by two of them, who therefore share the pay, and partly because in certain cases the cane-cutter is assisted by members of his

family, women and children, who do not appear in the enterprise's list of workers.

The Committee requests the Government to supply information on the wages that were actually paid to workers during the 1990-91 sugar-cane harvest and to supply, for example, extracts of the payrolls of various state or private plantations, including information on the measures that have been taken to ensure that cane-cutters are paid the minimum wage for an eight-hour day.

2. Weighing the sugar-cane. In its previous comments, the Committee also referred to the recommendation made by the Commission of Inquiry in paragraph 537 of its report, that more effective measures should be taken to ensure the accuracy of the weighing of cane since cheating over the weighing of cane has been described as one of the most serious abuses suffered by cane-cutters.

The Committee notes that, according to the report of the direct contacts mission, many of those who were interviewed agreed that irregularities in the weighing of cane continued to exist and that they were generally perpetrated by weighers for their own benefit, and that the direct contacts mission was able to observe that in some cases cane-cutters were not present at the moment of weighing.

The Committee notes that in the "La Romana" a procedure has been introduced whereby cane-cutters are recompensed in proportion to the difference in weight between two weighings of the cane, if the first weighing is unknowingly imprecise.

The Committee notes that section 2 of Decree 417/90 provides that the special labour inspection delegations set up in plantations shall ensure the application of the terms of the contract of employment concluded by the worker.

The Committee requests the Government to supply information on the measures that have been taken to ensure that workers can monitor the weighing operation through their own representatives. It also requested the Government to supply copies of reports of the inspection services concerning the monitoring of weighing operations, any violations that are reported and the penalties that are imposed in state plantations and in plantations that do not belong to the CEA.

3. Articles 3 and 7 (Payment of wages in cash and enterprise stores). In paragraph 538 of its report, the Commission of Inquiry recommended that the practice 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 in "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 without any deduction or discount.

The Committee notes from the report of the direct contacts mission that, in CEA plantations, the "Casa Vicini", and in private plantations, cane-cutters continue to receive a chit when the cane is weighed, on which the tonnes and corresponding value are marked. Cane-cutters should receive their wages in cash every fortnight upon presentation of their chits. Nevertheless, because they have no

savings, workers do not wait for payday but are obliged to exchange their chits for food in the private stores ("colmados") that exist in each "batey" (living area of plantations), or for cash from money-lenders, and that in each case there is a high discount. Subsequently, the persons who have been given the chits present them to the enterprise for payment, so that it may be said that in practice these chits, on which the amounts of cane that has been cut and delivered are marked, become a means for the payment of wages and circulate as negotiable papers in the "batey", as previously noted by the ILO supervisory bodies. The CEA authorities stated that the stores set up by the Price Stabilisation Institute (INESPRE), which exist in certain "bateyes", are a partial solution to prevent deductions in "colmados", but recognise that it would be difficult to cash the cane-cutters' chits more frequently.

The Committee notes that the Government refers in its report to the plantations of "La Romana" in which there are sales points for essential products for the workers. The Committee notes that the report of the direct contacts mission corroborates this statement. The Committee also notes that in CEA plantations the programme of agricultural diversification and social assistance has not been extended.

The Committee hopes that the Government and the CEA will take the necessary measures to ensure that the system for the payment of wages prevents the extortion of a proportion of the wages by private individuals through the negotiation of chits and, it also hopes that information will be supplied on the implementation of the agricultural diversification and social assistance programmes.

4. Article 14 (Workers' information). The Committee notes that the CEA circulars on rates of pay were adopted at the end of November 1990 and have been publicised through various media, including the radio, so that many of the persons interviewed by the direct contacts mission knew of these circulars, even though there appeared to be a certain confusion over some of the details of Circular No. 007 in which the rates of pay are set down.

The Committee notes that workers who arrive at the harvest for the first time are not in possession of precise information concerning the conditions governing their wages, since they have sometimes not concluded a contract, and even if they have done so, many of them are illiterate and do not understand the terms of the contract.

The Committee requests the Government to supply information on any measure that is taken to ensure that all workers are informed of the conditions in respect of their wages.

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 in order to ensure that effect is given to ratified international labour Conventions. In relation to the employment of workers on Dominican plantations, the primary responsibility for ensuring such enforcement must rest with the Government of the Dominican Republic. The Commission of Inquiry recommended that labour inspection services of the Secretariat of State for Labour be

developed so as to be an effective instrument for ensuring observance of labour laws and of the workers' rights on the plantations.

The Committee notes with interest that Decree no. 417/90 of 15 November 1990, provides in section 2 for the establishment of special labour inspection delegations responsible for implementing employment contracts and ensuring that their terms are strictly applied.

The Committee requests the Government to supply copies of labour inspection reports for the 1990-91 harvest containing information on the effect given in practice to provisions respecting the level and procedure for the payment of wages.

With regard to the protection of wages, the Committee notes that the system of remuneration of cane-cutters does not guarantee that the workers receive the minimum wage for a working day of eight hours. Furthermore, even though in some cases there have been improvements in the system for weighing cane, workers and their organisations continue to make frequent complaints, at least in certain plantations, concerning the fraudulent weighing of sugar-cane, with the additional disadvantage that, by reason of the form in which wages are paid, workers have to negotiate their chits, vouchers or receipts for the work performed in order to obtain cash for which they pay high rates of interest or in order to purchase goods at the store ("colmado") of the "batey", for which they also have to pay a higher price.

The Committee requests the Government to re-examine in the light of the Convention the procedures for determining and paying wages. It also requests the Government to examine the possibility of associating workers' organisations and other social organisations with the monitoring of the weighing of sugar-cane so that this process is more transparent. Finally, the Committee hopes that programmes to sell food at low prices such as those undertaken by the INESPRES and "La Romana", and programmes for allotting parcels of land to families to grow crops, will be continued with greater energy.

The Committee requests the Government to supply information on the points raised above.

D. The Committee notes the comments made by the Independent Workers Confederation (CIT) in which it alleges that the rights set out in the Convention have been violated. The Committee requests the Government to make any observations it may have in this respect.

The Committee refers to its comments on this matter under Convention No. 87.

Egypt (ratification: 1960)

Article 4, paragraph 2, of the Convention. The Committee recalls that it indicated in its previous comment that, in accordance with Article 4, paragraph 2, of the Convention, in cases in which partial payment of wages in the form of allowances in kind is authorised - as is the case under Egyptian legislation - appropriate measures shall be taken to ensure that such allowances are appropriate for the personal use and benefit of the worker and his family and that the value attributed to such allowances is fair and reasonable. It specified that these measures shall be taken even in cases where a minimum wage

in cash is provided and where these allowances in kind supplement the minimum wage in accordance with usage and customs. The Committee notes that, according to the Government, allowances in kind are governed by the internal regulations of the various services and are subject to all legislation respecting wages since they form part of the wages by virtue of section 1 of the Labour Code, Act No. 137 of 1981.

The Committee understands that these internal regulations of the various services are a sort of enterprise regulation and, therefore, even if as the Government indicates, the allowances that are governed by them were subject to the legislation respecting wages, these regulations could theoretically be changed at the will of the chief of the service or the owner of the establishment. As the Committee has pointed out on many occasions since 1964, this practice is insufficient to ensure the application of this Article of the Convention. It therefore requests the Government to take the necessary measures to adopt provisions, by means of an ordinance or other types of regulations adopted under its labour legislation, in order to give effect to this Article of the Convention. It recalls that the Government has promised on several occasions to take such measures.

Greece (ratification: 1955)

Articles 4 and 7, paragraph 2, of the Convention. With reference to its previous comments, the Committee notes that owing to the political situation in the country since the June 1989 elections, the Government has been unable to take the measures previously announced, which are intended to bring the legislation into conformity with the Convention. It notes that, according to the Government, the questions outstanding have been submitted to the new Government elected in June 1990 for examination with a view to the necessary legislative measures to be taken. The Committee again recalls that since 1958 it has been raising the questions of the payment of wages in kind and the prices charged in stores or services established by the employer, referred to in these Articles of the Convention, and hopes that the Government will take the necessary measures in the near future to harmonise its legislation with the Convention.

Iraq (ratification: 1960)

With reference to its previous comments, the Committee notes the discussion that took place at the Conference Committee in June 1990, and the information supplied by the Government in its last report.

The Committee also notes that a representation has been made by the Egyptian Trade Union Federation, under article 24 of the ILO Constitution, alleging non-observance by Iraq of Convention No. 95 among others (see document GB.248/20/21). Consequently, in accordance with the established practice, the Committee will revert to its examination of the questions pending concerning the application of the

provisions of this Convention once the representation has been examined by the competent bodies.

Libyan Arab Jamahiriya (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 notes that the tripartite commission set up to examine the representation submitted by the Federation of Egyptian Trade Unions under article 24 of the Constitution alleging non-observance by the Libyan Arab Jamahiriya of the Protection of Wages Convention, 1949 (No. 95), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Equality of Treatment (Social Security) Convention, 1962 (No. 118) is continuing its work.

The Committee notes, from the Government's report, that its previous comments have been examined by the People's General Committee of the Public Service, which made observations on the following points:

Article 2 of the Convention. The Committee of Experts noted in its previous comments that agricultural workers are not covered by the legislation governing the protection of wages.

The Committee notes that the People's General Committee of the Public Service recommended that either the first section of the Labour Code, of 1 May 1970, be amended to extend the scope of the Code to agricultural workers, or that regulations be adopted governing agricultural workers. The Committee hopes that the Government will take the necessary measures for the competent authorities to adopt a decision in this respect and fill the gap that exists in the legislation.

Article 4, paragraph 1. The Committee notes that, while the People's Committee considers that payment in kind does not exist in practice, it has recommended the adoption of a text to establish at 50 per cent the proportion of wages that could be paid in kind. The Committee of Experts therefore requests the Government to ensure that the above proportion is reasonable. Furthermore, the Committee notes that the People's Committee is of the opinion that section 100 of the Labour Code which provides, among other provisions, that the cost of housing and meals provided by the employer in "remote areas" shall be determined by order of the Minister of Labour and Social Affairs, should be amended in order to bring it into conformity with the provisions of the Convention or that the question should be settled through a decision by the Secretary of the People's General Committee of the Public Service.

The Committee requests the Government to indicate the decision that is adopted in order to give effect to this Article of the Convention.

Article 7, paragraph 2. With reference to its previous comments, the Committee recalls that section 35 of the Labour Code provides that the employer shall not compel the worker to

purchase food or other commodities manufactured by him, nor to purchase provisions from any designated store. The Committee requests the Government to indicate the provisions that have been adopted or are envisaged in order to ensure that the commodities and services provided by employers are sold or supplied at fair and reasonable prices and that the stores established and services operated by the employer are not operated for the purpose of securing a profit.

Article 8, paragraph 1. The Committee notes that the People's General Committee of the Public Service has recommended the adoption of a legislative text which would provide that deductions from wages shall not exceed 25 per cent of the wage. The Committee hopes that, when this text is adopted, the Government will take into consideration the fact that Article 8 concerns deductions made by employers other than attachments or assignments. Furthermore, the provisions to be adopted should forbid any deduction that is not formally authorised by the law and these provisions should also provide for a limit to the total deductions authorised (taking into account, in particular, the fact that sections 35, 36 and 78 of the Labour Code authorise deductions which may in total amount to nearly 50 per cent of the worker's wage). The Committee requests the Government to supply the text adopted to give effect to this Article of the Convention. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1961)

See under Convention No. 111.

Philippines (ratification: 1953)

With reference to its previous comments, the Committee notes the information transmitted by the Government to the Conference Committee in June 1990, the discussion that took place within that Committee and the information contained in the Government's last report.

The Committee recalls its previous observation and the discussion that took place at the Conference concerning the application of the Convention in respect of Filipino workers employed in Iraq. In this connection, the Committee notes that a representation has been made by the Egyptian Trade Union Federation, under article 24 of the ILO Constitution, alleging, inter alia, non-observance by Iraq of Convention No. 95. Consequently, and in accordance with the established practice, the Committee will resume its examination of the questions outstanding concerning the application of the provisions of this Convention once the above-mentioned representation has been dealt with by the competent bodies.

The Committee asks the Government also to refer to its direct request.

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 reports of the labour inspectorate, and in particular the report for 1990. The Committee notes that, despite the efforts that have been made, there are still 89 enterprises in a situation of illegal arrears and non-payment of workers' wages, which means that 7,610 workers have not received their wages, in comparison with the 15,000 who were in this position in 1989. The Committee once again hopes that the Government will continue to make every effort to resolve this situation and requests the Government to continue supplying information in this respect.

The Committee also notes the explanations supplied concerning the concept of "pay" and "basic pay", as used to determine wage arrears. The Committee notes that the concept of "basic pay" used by Act No. 17/86 is a more limited concept than that set out in the Convention. The Committee understands that the use of this restrictive concept was due to the specific circumstances that needed to be resolved and that, as a last resort, workers could opt for the application of the normal system based on the Act respecting individual employment contracts. Nevertheless, the Committee wishes once again to state that the various provisions of the Convention are based on the broad definition set out in Article 1 of the Convention. The Committee therefore hopes that once the current situation of arrears and non-payment of wages by certain enterprises has been resolved, the provisions of the normal legal framework for employment contracts will be applied uniformly throughout the country. The Committee requests the Government to continue supplying information on the measures that have been adopted to guarantee that full effect is given to the provisions of the Convention.

The Committee requests the Government to refer to the request that is being addressed to it directly.

Syrian Arab Republic (ratification: 1957)

Articles 8, paragraph 1, and 11, paragraph 1, of the Convention. The Committee recalls its previous comments with regard to temporary workers who do not work for public bodies and who, in accordance with section 88(a) of the Labour Code, are excluded from the coverage of Book II, Chapter II, of the Code. The Committee notes that a draft Legislative Decree has been submitted to the President of the Council of Ministers in order to amend, among other provisions, section 88(a) of the Labour Code so as to extend the protection of its provisions (respecting limitations on deductions from wages under certain conditions and the protection of wages owed by the employer, his successor or assignee in cases of bankruptcy) to the above workers. The Committee requests the Government to supply a copy of the Legislative Decree once it has been adopted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Belize, Bolivia, Burkina Faso, Central African Republic, Chad, Colombia, Costa Rica, Cuba, Gabon, Grenada, Guatemala, Guyana, Islamic Republic of Iran, Italy, Lebanon, Malaysia, Mauritius, Mexico, Niger, Nigeria, Philippines, Poland, Portugal, Romania, Saint Lucia, Sierra Leone, Solomon Islands, Somalia, Sudan, Swaziland, United Republic of Tanzania, Turkey, Uganda, Republic of Yemen, Zaire.

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Sri Lanka (ratification: 1958)

The Committee has noted the observations made in March 1990 by the Lanka Jathika Estate Workers' Union relating to the application in Sri Lanka of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), and in particular, to the activities of employment agencies operating under the Foreign Employment Agencies Act No. 32 of 1980. The Union considers that despite the legislative measures taken under the above-mentioned Act and the Fee-Charging Employment Agencies Act No. 37 of 1956, there does not appear to be a proper control of the activities of these agencies (in particular, as regards fees) and proper safeguard of the prospective foreign jobseekers.

The Committee has also noted that these observations were sent to the Government, in April 1990, for such comments as might be judged appropriate. The Committee observes that no such comments have been received from the Government. It therefore requests the Government to refer to these observations in its next report and to make such comments as it considers appropriate in order to enable the Committee to examine the questions raised by the above-mentioned organisation in substance.

Syrian Arab Republic (ratification: 1957)

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

It notes that a new Bill drafted to repeal and modify some provisions of the Labour Code in order to align it with certain ILO Conventions ratified by the country, including Convention No. 96, has been submitted to the Council of Ministers by the letter No. AD/3/4532 of 5.11.90. The Government indicates that, among other things, this Bill contains provisions with a view to repeal sections 18 and 22 of the Code, which authorise the setting up of private employment agencies, and to amend section 11 of the Code so as to extend the application of the chapter concerning placement of unemployed persons to domestic and similar workers. With reference to its previous comments, the Committee once again expresses the hope that the Government will not fail to ensure full conformity of the national

legislation with Part II of the Convention. It therefore trusts that the above Bill will be adopted in the nearest future and that it will enable the problem raised in its comments since the time when the Convention came into force, to be solved. It asks the Government to provide, in its next report, information on any progress made in this regard.

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

Convention No. 97: Migration for Employment (Revised), 1949

Requests regarding certain points are being addressed directly to the following States: Brazil, France, Italy, Jamaica, Portugal, Saint Lucia, Spain, Zambia.

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

Convention No. 98: Right to Organise and Collective Bargaining, 1949

Algeria (ratification: 1962)

The Committee notes with interest the adoption of Act No. 90-11 of 21 April 1990 respecting labour relations and Act No. 90-14 of 2 June 1990 respecting procedures for the exercise of the right to organise, which bring to a conclusion the Committee's previous comments, as they repeal section 87 of Act No. 75-31 whereby the coming into force of a collective agreement was subject to prior approval by the Minister, and section 127 of Act No. 78-12 under which wage fixing was a prerogative of the Government.

The Committee is also addressing a direct request to the Government for information on another point.

Argentina (ratification: 1956)

The Committee notes the Government's report, to which it annexed a long list of the collective agreements concluded between 8 July 1988 and 14 August 1990.

In its previous comments, the Committee observed that section 3 of Act No. 23545 specifies that, in order to be approved, collective agreements should be free of any "clauses which infringe the norms of public order or standards issued in the protection of the general interest; nor shall the entry into force of the agreement significantly affect the overall economic situation or the situation of certain branches of activity, or result in a serious deterioration in the standard of living of consumers". In this connection, the

Committee requests the Government to give details of the underlying basis of approval given to collective agreements in Argentinian legislation and to indicate whether this is also applied to a collective agreement extended to all the workers in a sector of activity or an occupational category in the area concerned, even when a proportion of these workers are not members of the signatory trade union organisations. The Committee also requests the Government to supply details on the legal effect of collective agreements that are not approved, and to specify in particular whether they apply fully to workers who are members of the signatory trade union organisations.

Finally, the Committee would be grateful if the Government would provide information on the development of collective bargaining in the public sector.

Austria (ratification: 1957)

The Committee has taken note of the Government's reports and of the observations made by the Austrian Congress of Chambers of Workers.

Referring to its earlier comments concerning the need to adopt legislative measures for the protection against unlawful dismissals (in particular for trade union activities) of workers in enterprises with fewer than five employees, the Committee notes with regret that, according to the report of the Government, the employers' opposition prevented once again the adoption of a legislative amendment providing such protection. While noting with interest that under Amendment No. 475/1990 to the Collective Labour Relations Act, the protection afforded to individual workers against dismissal has been enlarged and that the Ministry for Labour and Social Affairs is considering further amendments to the labour legislation with a view to improving the protection of individual workers against anti-union discrimination, the Committee considers that the continued opposition of one of the social partners should not prevent the Government from adopting measures to bring its legislation into conformity with the Convention.

The Committee requests once more the Government to take the necessary measures, along the lines mentioned above, to protect workers in enterprises with fewer than five employees against acts of anti-union discrimination and to bring its labour legislation into conformity with the Convention, and to indicate in its next report any development in that respect.

The Committee addresses a request directly to the Government on another point.

Bangladesh (ratification: 1972)

The Committee notes the Government's report, and its communications of 6 November and 15 December 1990. It also notes the observations of the Bangladesh Workers' Federation (BWF) contained in communications dated 23 July and 8 October 1990, and of the Bangladesh Employers' Federation (BEF) contained in a communication dated 10 August 1990.

In its 1989 observation the Committee had raised a number of issues relating to:

- voluntary bargaining in the private sector;
- voluntary bargaining in the public sector; and
- protection against interference.

Voluntary bargaining in the private sector

The Committee had noted that the combined effect of sections 7(2), 22 and 22A of the Industrial Relations Ordinance, 1969 might be to impair the development of collective bargaining in small establishments because they appear to inhibit the establishment of "sectoral" or "industry" unions. Accordingly, it had asked the Government to provide any available information as to the development of free collective bargaining in such establishments.

In its report the Government states that sections 7(2), 22 and 22A of the Ordinance do not inhibit the development of voluntary collective bargaining. This is evidenced by the fact that there are in existence a number of unions in small industry. The BEF expresses an essentially similar view.

The Committee takes note of these observations of the Government and the BEF, but remains of the view that the retention of section 7(2) in its present form, when read with sections 22 and 22A, may serve to inhibit the development of effective collective bargaining in the small business sector by inhibiting the development of industry or sectoral unions. Accordingly it must ask for the removal of the requirement in section 7(2) that, in order to be registered under the Ordinance, a trade union must have a membership of at least 30 per cent of the total number of workers in the establishment or group of establishments in which it is formed.

Voluntary bargaining in the public sector

For some years the Committee has been expressing its concerns in relation to the development of collective bargaining in the public sector, and in particular the practice of determining wage rates and other conditions of employment by means of Government-appointed Wages Commissions. It has pointed out to the Government that under Article 4 of the Convention it is for the Government to encourage the full development and utilisation of machinery for the voluntary negotiation of collective agreements, and has requested the Government to indicate how it intended to meet this obligation in respect of workers in public sector industries.

In its most recent report the Government simply refers to its previous reports whereby it had indicated that the Wages Commission system had been adopted: (i) to ensure uniformity in pay, etc. in the public sector; and (ii) in consequence of the fact that the Government as the employer in the public sector was likely to become the dominant partner in negotiations. The Commission as a third party could help to mitigate the effects of that dominance. The Government has also pointed out that in 1984 the Commission heard representations from representatives of the employers and workers, thereby giving its work a tripartite character.

In the light of this reply, the Committee can only reiterate that conformity with Article 4 requires that the Government take steps to encourage and promote the development and utilisation of machinery for the voluntary negotiation of collective agreements, and again draw the attention of the Government to the principles set out at paragraphs 298 to 319 of its 1983 General Survey.

Protection against interference

The Committee had asked the Government to review its legislation with a view to the adoption of an appropriate measure of protection against "interference" for purposes of Article 2 of the Convention. Both the Government and the BEF indicate that, in their opinion, sections 15 and 16 of the Ordinance provide adequate protection for these purposes. The Committee remains of the view that while these provisions appear to provide an appropriate measure of protection for purposes of Article 1 of the Convention, they do not satisfy the requirements of Article 2.

Denial of right to engage in collective bargaining for workers in export processing zones

In its observation on Convention No. 87 the Committee called upon the Government to amend section 11A of the Bangladesh Export Processing Zones Authority Act 1980 so as to enable workers in those zones to exercise the rights guaranteed by Articles 2 and 3 of that Convention. Section 11A also appears to deny workers in such zones the rights guaranteed by Articles 1, 2 and 4 of Convention No. 98. The Committee must, therefore, call upon the Government to amend the 1980 Act so as to bring it into conformity with this Convention.

Brazil (ratification: 1952)

The Committee takes note of the information supplied by the Government in its report and of the discussions held at the Conference Committee in 1989. It also takes note of the comments of the United Central Workers' Organisation (CUT) of 8 July 1990.

1. Article 1 of the Convention (situation at the Bank of Brazil). In its comments, the CUT refers to a directive issued by the President of the Bank of Brazil, to compile a register of employees likely to be dismissed as part of the staff restructuring policy. The Committee notes that the directive draws attention, in particular, to the employees who "work the least and demand the most". The Committee considers that the selection criteria established are liable to impair the employees' right to organise which is guaranteed by the Constitution and national legislation.

Accordingly, the Committee asks the Government to provide information on the manner in which the Bank of Brazil staff restructuring policy is being applied in practice, indicating in particular whether the trade union organisations are involved in its creation and implementation and whether, in practice, any measures have been taken or are contemplated to guarantee adequate protection

for these employees against all acts of anti-trade union discrimination that may arise with restructuring.

2. Article 4 of the Convention. Measures to encourage and promote the full development and utilisation of machinery for voluntary negotiation of collective agreements.

(a) General regime. In its previous observation, the Committee asked the Government to inform it of measures taken in the context of its economic policy to extend the scope of collective bargaining and to associate the social partners with its wages policy. Similar requests were also expressed in the conclusions of the Conference Committee.

With regard to the legislative restrictions contained in sections 11 and 12 of Act No. 6.708 and section 623 of the Consolidation of Labour Laws (CLT), the Government indicates in its report that wage adjustment machinery has been established by Act No. 8.030 of 12 April 1990 and by Temporary Order No. 193 of 25 June 1990. According to the Government, only the minimum wage is subject to intervention it being adjusted monthly to the consumer price index. Other wages are fixed through free negotiations, this being the only way to protect purchasing power effectively, since the experience of the past 20 years has shown that the indexation of wages and state intervention in the fixation of wages have led to a substantial reduction in their value and impairment of the freedom to negotiate. The Government states that it wishes to re-establish not only the value of wages but also the spirit of free negotiation which should prevail in negotiations relating to industrial relations. The Government also gives its assurance that it will shortly make every effort to remove all obstacles to collective bargaining.

The Committee observes that although the texts in question reaffirm the constitutional principle of free collective bargaining, they restrict collective negotiations by imposing parameters which may not be exceeded, as pointed out by the CUT whose main objection to the texts is that they make recovery of the value of wages lost by inflation impossible. The Committee also notes that the Government provides no information on any measures taken or machinery used to persuade the social partners to adhere to its economic austerity policy.

The Committee is aware of the country's serious economic and financial situation. However, it reminds the Government of the need to repeal the general provisions which are contrary to Article 4 of the Convention, i.e. section 623 of the Consolidation of Labour Laws, as amended by Act No. 5.584 of 26 June 1970 and Legislative Decree No. 229 of 28 February 1967, which confers extensive powers on the authorities to cancel collective agreements or arbitration awards that are not consistent with the rules set by the Government's wage policy, and the provisions of Act No. 6.708 of 30 October 1979 which allow enterprises demonstrating their economic inability to cope with wage increases to be excluded from the scope of agreements applying to them. The Committee once again urges the Government to ensure that all measures concerning wage fixing are adopted in the context of a dialogue between the Government and the social partners, so that an agreement on wage-fixing policy may be reached between the sectors concerned.

(b) Regime governing public enterprises, mixed-economy enterprises and other entities directly or indirectly controlled by the State. The Committee refers to the Constitution and notes that section 173, subsection 1 places the above sector under the legal regime governing private enterprises. The Committee gathers that the staff of such enterprises are covered by Act No. 8.030 of 12 April 1990 and Temporary Order No. 193 of 25 June 1990.

Accordingly, the Committee refers to its comments in the preceding paragraph. Moreover, it requests the Government to indicate the measures taken or contemplated to amend section 12 of Act No. 6.708 of 30 October 1979 whereby collective agreements in this sector may only be concluded within the terms of the resolutions of the National Council on Wage Policy, contrary to the constitutional principle of free collective bargaining and to Article 4 of the Convention.

The Committee asks the Government to keep it informed of any developments in this regard.

Chad (ratification: 1960)

The Committee takes note of the Government's report and observes that, as the revision of the Labour Code has not been completed, there have been no new developments with regard to legislation since its last observation.

The Committee recalls the need to amend section 119 of the Labour Code which empowers the administration to intervene in the collective bargaining process, and sections 121 and 122 of the Labour Code concerning prior authorisation for the entry into force of collective agreements, in order to bring the legislation into conformity with Article 4 of the Convention.

The Committee trusts that the draft Labour Code prepared in 1988 with ILO assistance will be adopted in the near future since, as the Government recalls in its last report, the above-mentioned provisions are not reproduced in it. It asks the Government to indicate any progress made in this respect in its next report.

In addition, the Committee is addressing a request directly to the Government about maintaining the provision of the Labour Code that gives effect to Articles 1 and 2 of the Convention.

Colombia (ratification: 1976)

The Committee notes the Government's report, which only covers the period from July 1988 to June 1989.

The Committee considered that the sanctions laid down for acts of anti-union persecution (fines of from one to 40 times the minimum monthly wage) should be further increased in order to be sufficiently dissuasive. In this context, the Committee notes with satisfaction that section 39 of Act No. 50, of 28 December 1990, has amended section 354 of the Labour Code so as to increase the amount of the sanctions that are applicable in the event of acts that interfere with the right of association. These sanctions now provide for a fine

equivalent to from five to 100 times the highest minimum monthly wage, without prejudicing the penal sanctions that are applicable by virtue of section 292 of the Penal Code (imprisonment of from one to five years) for violations of the rights of assembly and association.

The Committee also shared the conclusion of the Committee on Freedom of Association at its meeting in November 1988, when examining Case No. 1465 [see the 259th Report, paragraphs 675 to 678] in which, with reference to the distinction between "public servants" (who may be freely appointed and dismissed and are not entitled to enter into collective agreements) and "official employees" in commercial and industrial state enterprises, it emphasised that within the framework of Conventions Nos. 87 and 98, the legal status of "public servants" in the Colombian legislation is not satisfactory, since workers in state-owned commercial or industrial enterprises should have the right to negotiate collective agreements, and should enjoy suitable protection against acts of anti-union discrimination.

In this connection, the Committee notes that section 57 of Act No. 50 amends section 406 of the Labour Code so as to permit official employees to "establish mixed organisations of official employees and public employees, which, in their activities, shall take into account the limitations set out by law regarding the legal status of their members in respect of the administration". The Committee requests the Government to indicate whether, on the basis of this provision, workers who are members of organisations of public employees and of mixed organisations (of public employees and official employees) enjoy the protection set out in the Labour Code, or in other regulations issued thereunder against acts of anti-union discrimination.

With regard to the right to collective bargaining of organisations of public employees, the Committee points out that the Convention deals with the position of all workers, with the only possible exception being public servants, who are engaged "in the administration of the State". It requests the Government to take measures to amend the legislation (sections 414 and 416 of the Labour Code) in order to grant those "public employees" who are not engaged in the administration of the State, the guarantees set out in the Convention in respect of the negotiation of collective agreements. The Committee requests the Government to report any development in this respect.

Costa Rica (ratification: 1960)

Articles 1 and 2 of Convention (protection against acts of discrimination and interference). For several years in its comments the Committee has been requesting the Government to adopt specific provisions that expressly establish means of recourse and penalties against acts of anti-union discrimination and interference by employers in workers' organisations. In its previous observation, the Committee noted the information supplied by the Government in its report to the effect that the new draft of the integral reform of the Labour Code retains the sections respecting non-discrimination and non-interference that were contained in the 1981 draft Labour Code prepared with ILO assistance.

The Committee wishes to point out that the current legislation does not provide protection for trade union members and, in particular, does not guarantee the employment of trade union officers and trade unionists when the cause of their dismissal is participation in trade union activities, since dismissal is permitted - without giving the need to specify reasons (at "the desire of the employer") and only requiring the payment of statutory compensation (section 85 of the Labour Code). This is not in accordance with Article 1 of Convention No. 98.

The Committee notes the Government's statement in its latest report that it hopes to extend the provisions respecting protection against discrimination and interference by establishing a right of review and penalties. The Government also states that the Committee's comments will be analysed by the group that is examining the two draft texts of the Labour Code with the purpose of establishing one draft text.

The Committee hopes that provisions will be adopted in the near future to establish a right of review and sufficiently effective and dissuasive penalties against acts of anti-union discrimination and interference. The Committee requests the Government to inform it of developments in this respect.

Articles 4 and 6 (the right to bargain collectively of public servants who are not engaged in the administration of the State). The Committee had noted the information contained in the Government's previous report to the effect that a negotiating committee had been set up and was composed of the principal central trade union organisations, the Government of the Republic and various ministries, and that this committee had prepared draft legislation respecting collective bargaining in the decentralised public sector, which would be submitted to the Legislative Assembly.

In its latest report, the Government indicates that the draft legislation respecting collective bargaining in the decentralised public sector is now being examined by the Legal Affairs Commission of the Legislative Assembly and that it does not yet have any information available in this respect.

The Committee is bound once again to express the hope that the above draft legislation (which brings the legislation into conformity with the Convention) will be adopted in the near future and requests the Government to indicate any progress that is achieved in its next report.

Denmark (ratification: 1955)

The Committee notes the information provided by the Government in its report and its communication of 6 March 1991, the extensive debate before the Committee of the Conference in 1989, as well as the comments of the Danish Seamen's Union (DSU).

1. With reference to its previous comments relating to restrictions on free collective bargaining and fixing of wage rates, the Committee notes that, in the spring of 1989, there were negotiations covering practically all agreements in the private and public sectors, where the parties agreed on average wage increases of

2.5 per cent. The Committee also refers to its observation under Convention No. 87 in this respect.

2. As regards the Danish International Ships' Register (DIS) established under Act No. 408 of 1988 and the conclusions of the Committee on Freedom of Association in Case No. 1470, the Committee recalls that article 10 of that Act reads as follows:

(1) Collective agreements on wage and working conditions for employees on vessels in this register shall explicitly state that they shall be applicable for such employment only.

(2) Collective agreements as mentioned in subsection (1) which have been concluded by a Danish trade union organisation may only comprise persons who are considered to be residents of Denmark or who, by virtue of incurred international obligations, shall be put on an equal footing with Danish citizens.

(3) Collective agreements as mentioned in subsection (1) which have been concluded by a foreign trade union organisation may only comprise persons who are members of the organisation concerned, or persons who are citizens in the country where the trade union organisation is domiciled, in so far as they are not members of another organisation with which an agreement, as mentioned in subsection (1), has been concluded.

At the 1989 Conference and in its communications, the Government submitted in substance the following arguments:

- without the DIS, there is no doubt that the whole Danish merchant fleet would have flagged out to so-called flags of convenience; the DIS was the only alternative;
- the whole issue of international registers should be discussed in a more global fashion in the appropriate international forum, where all parties could express their views;
- seafarers employed on ships registered on the DIS do not pay income tax (which may represent up to 70 per cent in Denmark); thus, it was necessary to adjust the levels of pay. However, the other conditions of work (holidays, rest periods, etc.) have not changed;
- the establishment of the DIS does not change the fact that full and voluntary collective bargaining is open to all seafarers employed on Danish ships;
- the criterion of residence was naturally chosen in section 10 of Act No. 408 since it is a decisive factor in the actual cost of living; this is not a problem of discrimination based on nationality;
- the real problem is a question of demarcation between different unions; the Government cannot accept that Danish trade unions should have the exclusive right to negotiate on behalf of seafarers employed aboard Danish ships.

The Government further indicates in its report that meetings were held with all representative parties in 1990; although the employees' organisations maintain their criticism about the way in which the DIS was introduced, there seems to be an agreement that it is here to stay. The Government also mentions that in 1989 the parties agreed on new collective agreements for employees on DIS ships. In its communication of 6 March 1991, the Government states that it is still

ready for further discussions if the organisations involved express such a wish.

In its recent communication, the Danish Seamen's Union (DSU) maintains that Act No. 408, and in particular section 10 which introduces special rules concerning collective agreements for ships registered in the DIS, remains an obstacle to the right of free bargaining and continues to discriminate against seafarers by reason of their nationality. While the Ministry of Labour held meetings in 1990 with various workers' and employers' organisations, it indicated on 19 December 1990 that, for the time, the matter did not merit further consideration. The DSU requests that the Danish International Ships Register Act be amended.

The Committee notes that under section 10 of Act No. 408, collective agreements concluded by Danish trade unions apply only to persons considered as residents of Denmark. As such, this article prevents these unions from concluding collective agreements on behalf of other seafarers employed aboard Danish ships. The Committee considers that this provision is not in conformity with Article 4 of Convention No. 98, and Articles 2, 3 and 10 of Convention No. 87. In the Committee's opinion, these restrictive provisions do not aim at encouraging and promoting voluntary negotiation between employers' and workers' organisations, nor at allowing workers who are employed aboard Danish ships but who are not residents of Denmark, to join the organisations of their own choosing to defend their interests, free from interference by the public authorities. The Committee invites the Government to hold further constructive discussions on this subject with the organisations involved and to reconsider its position in the light of the foregoing comments.

Furthermore, the Committee wishes to be provided with statistical information on the magnitude of the problem, such as the number and percentages of Danish ships actually registered on the DIS relative to the total fleet, and the number and percentages of Danish and foreign seafarers concerned.

Dominican Republic (ratification: 1953)

The Committee takes note of the Government's report and of the comments dated 19 October 1990 forwarded by the Independent Workers' Confederation (CTI) involving the same topic.

Articles 1 and 2 of the Convention

1. The need to strengthen measures protecting workers against anti-union discrimination and acts of interference

For several years, the various supervisory bodies called upon to examine the trade union rights situation in the Dominican Republic have all pointed out the need to adopt adequate measures to provide protection against acts of anti-union discrimination in order to guarantee observance of trade union rights recognised in the national legislation (see the report of the Commission of Inquiry of 1983 which

examined the application, in particular, of Convention No. 98 in connection with Haitian workers engaged in sugar plantations, and the 211th, 241st and 253rd reports of the Committee on Freedom of Association).

In its previous observation, the Committee recalled that although the legislation contains provisions consistent with Articles 1 and 2 of the Convention (section 307 of the Code), the penalties provided by the law to enforce them (sections 678, 15 and 679, 6 of the Code) are quite inadequate. It also noted from the comments made by the General Confederation of Workers (CGT) that there had been dismissals, particularly in the free trade zones, in order to deprive certain workers of the right to join trade unions, and urged the Government to ensure that measures were taken to prevent all forms of anti-union discrimination.

The Committee notes that, in its communication, the CTI also reports that workers have been dismissed from an enterprise located in the free trade zone, because of their trade union activities.

In its report, the Government recalls that trade union rights are respected and that workers are provided with the necessary guarantees for the full exercise of these rights. The Government adds that there is no form of anti-union discrimination against Haitian workers on sugarcane plantations, as witnessed by the existence of trade unions in each of the enterprises of the State Sugar Board, of three unions at Casa Vicini and one union at the Central Romana.

Furthermore, the Government indicates that a Bill is to be presented to the Legislative Assembly during its next session, which will guarantee that workers holding trade union office may not be removed during the term of such office. In addition, reinforcement of the penalties set out in section 679 of the Labour Code is also being contemplated, in particular by increasing the amount of fines and introducing prison sentences for all violations of section 307 of the Labour Code. Lastly, there are also to be provisions permitting the reinstatement of workers dismissed for trade union activities.

While noting this information, the Committee again urges the Government to ensure that measures accompanied by sufficiently effective and dissuasive sanctions are adopted in the near future to guarantee that all workers, including those in agriculture, industry and the free trade zones enjoy adequate protection against all acts of anti-union discrimination and all forms of interference by employers in their union organisations.

2. Workers in agricultural undertakings
employing no more than ten workers
excluded from the scope of the Labour Code

The Committee has been recalling for several years that the exclusion of agricultural, agro-industrial, stock-raising and forestry enterprises with no more than ten workers from the Labour Code has the effect of enabling employers of such small enterprises to exempt themselves from the obligations laid down in section 307 of the Code which prohibits all acts of anti-union discrimination and interference by employers, and of excluding this category of workers from collective bargaining. The Committee also recalls that, in paragraph

474 of its report, the Commission of Inquiry stressed the need to define the status of such workers with regard to the exercise of their trade union rights.

The Committee notes from the Government's report that this provision is to be repealed at Parliament's next session so that these workers may be covered by all provisions of the Labour Code.

Accordingly, the Committee urges the Government to adopt the measures that have now been envisaged for several years to guarantee that these workers enjoy adequate protection against all acts of anti-union discrimination and the right to settle their conditions of employment through collective bargaining.

Ecuador (ratification: 1959)

The Committee refers to its comments under Convention No. 87 respecting protection against acts of anti-union discrimination at the time of recruitment.

The Committee notes that the Ecuadorian Confederation of "Classistas" Organisations (CEDOC) sent comments in 1989 which emphasised that General Clause 12 of the State's 1988-89 budget obstructs collective bargaining.

In this respect, the Committee notes that this General Clause provides: (a) for a report by the Ministry of Finance on draft collective agreements to determine, on the basis of the budget situation and the parties concerned, the limits up to which the public sector institution concerned may negotiate; (b) for a report by the Co-ordinating Office for Labour Matters of the President of the Republic on the draft collective agreement; (c) and for the wage increases in the public sector provided for in collective agreements not to exceed similar levels applied to public servants in general.

The Government states in its report that the State Budget contains a series of items with specific limits that may not be exceeded and that the intervention of the Ministry of Finance is intended to prevent this; the use of such funds for other purposes is considered to constitute the offence of "misappropriation of public funds" for which the cashiers, treasurers, accountants and chiefs of offices are held responsible.

The Committee considers that in the case of public servants who are not engaged in the administration of the State, bargaining rights must be protected. Where a state budget is set which purports to limit the money available for wage settlement, prior discussion with the nominal employer and the trade union organisations concerned are important. Subsequent bargaining at the workplace should also retain as much flexibility as possible so that it enjoys a substantial measure of effectiveness. The Committee asks the Government to supply in its next report information on progress achieved in this respect.

Egypt (ratification: 1954)

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

For several years, the Committee has been noting that section 87 of the Labour Code, as amended by Act No. 137 of 1981, provides that any clause in a collective labour agreement that jeopardises the economic interests of the country shall be null and void.

As it indicated in its previous observations, the Committee is of the opinion that such a provision, by restricting the scope of collective bargaining, is of such a nature as to prejudice the principle of free bargaining set out in Article 4 of the Convention.

In its previous observation, the Committee noted that a tripartite committee, composed of representatives of the Ministry of Manpower, the Confederation of Egyptian Workers' Unions and the Federation of Egyptian Industries had been set up to study the possibility of amending certain provisions of the Labour Code, including section 87. In its report, the Government indicates that the work of this committee is continuing and that it will ensure that section 87 of the Labour Code is among the provisions submitted for examination with a view to its amendment in accordance with the Committee's opinion, although, according to the Government, bargaining takes place freely in Egypt and the social partners take into account the economic interests of the State.

While noting this statement, the Committee points out that if the Government considers that the social partners must conform to "national economic interests", as defined in the economic policy of the Government, the parties to bargaining must not be compelled to conform, but must be invited to have regard voluntarily to the national interest in their negotiations and must remain free in their final decisions (see in this connection paragraph 318 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

The Committee trusts that the Government, upon whom it is incumbent to encourage voluntary collective bargaining in the broadest sense, will take in the very near future the necessary steps to amend section 87 of the Labour Code in order to ensure that the national legislation is in full conformity with the Convention. It requests the Government to supply in its next report information on progress achieved in this respect.

Ethiopia (ratification: 1963)

Article 4 of the Convention (Measures to be taken to encourage and promote voluntary negotiation between employers or employers' organisations and workers' organisations with a view to regulating the terms and conditions of employment by means of collective agreements).

Further to its previous observation concerning, inter alia, the Government's policy on restrictions of wages increases and on the consultation and participation of trade unions in the establishment of that wages policy, the Committee notes the information provided by the Government in its report and in particular that, Ethiopia having now embarked on a new economic policy guided by a mixed economic system based on private, co-operative and state ownership, the Government is currently taking sweeping economic measures necessitating a review of the draft Labour Code, in light of the changes occurring in the country. The Committee further observes that it is intended that this legislation should be enacted soon, since the ad hoc committee mandated with examining that project has completed its work and submitted its opinion to the State Council.

The Committee takes due note of these developments and hopes that a new Labour Code, giving effect to the Convention and taking its previous comments and observations into account, will be enacted in the near future. It requests the Government to keep it informed of any development in this regard in its next report, and to provide the text of the new Labour Code as soon as it is adopted.

The Committee is addressing a request directly to the Government on another point.

Fiji (ratification: 1974)

With reference to its previous observation, the Committee takes note of the Government's report, the comments of the Fiji Trades Union Congress (FTUC) dated 5 and 15 November 1990, as well as the conclusions reached in relation to this Convention by the Committee on Freedom of Association in the context of Case No. 1425 (268th Report of the Committee, paras. 410-458, approved by the Governing Body in November 1990).

1. Article 2 of the Convention. In its previous comments, the Committee had stressed the need to adopt specific measures, particularly through legislation, to guarantee adequate protection (accompanied by sufficiently effective and dissuasive sanctions) to workers' organisations against any act of interference by employers or their organisations. In its most recent report, the Government recognises that the present legislative situation does not seem to comply fully with the requirements of Article 2 of the Convention. It states that, although the Government has not experienced interference by employers in trade union activities, consideration will have to be given to changing the law in order to comply fully. According to the Government, this will be looked at when the next amendment of the relevant laws is considered.

The Committee welcomes this development. It asks the Government to inform it as soon as possible of the elaboration of the necessary legislation and to indicate when such an amendment will be before the Legislature so that full effect is given to this Article.

2. Article 4 of the Convention. The Committee had requested information on the scope of the restrictions on collective bargaining imposed by the Counter-Inflation (Remuneration) Act. The Government stresses again that the Act lays down limits for salary and wage

increases and does not bar negotiations on other terms and conditions of work; collective agreements have been renegotiated during the currency of this Act affecting these latter issues. It supplies copies of Variation Orders issued under the Act (allowing 6 per cent wage increases from 1 January 1989 and from 1 July 1989) and points out that wage increases had been negotiated in the Tripartite Forum and implemented through the issuance of appropriate Variation Orders. The Government adds that the machinery necessary to foster voluntary negotiations is contained in section 14 of the new Constitution, and that such negotiations are encouraged through the provisions of the Trade Union Act, the Trade Union Recognition Act and the Trade Disputes Act. It also states that the imposition of wage ceilings is intended as a short-term solution to Fiji's economic recovery and it is hoped that, with continuing economic improvement, the Act will be repealed and free collective bargaining reintroduced without any further restriction in order to comply fully with this Article of the Convention.

While noting the Government's explanations on this point, the Committee recalls that, where for compelling reasons of national economic interest, a government considers that wage rates cannot be fixed freely by means of collective negotiations, such a restriction should be imposed as an exceptional measure, and only to the extent necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers' living standards (1983 General Survey, para. 315). The Committee notes that the wages ceilings date back to 1986 and followed a wage freeze announced on 9 November 1984, restraint measures which were criticised by the Committee on Freedom of Association in an earlier case against the Government of Fiji (Case No. 1379, approved by the Governing Body in March 1987). The present Committee also observes that no evidence is supplied by the Government to show that legislation of this type is an exceptional measure and provides protection of workers' living standards. It does not appear therefore that the criteria for acceptable limitations on voluntary collective bargaining have been met. The Committee accordingly asks the Government to inform it of the measures it intends taking to lift this restriction on free wages bargaining in order to ensure full compliance with the Convention on this point.

3. Also in relation to Articles 3 and 4 of the Convention, the Committee takes note of the FTUC's comments dated 5 and 15 November 1990. These comments indicate that bargaining is hampered by employer refusal to recognise independent unions; for example, the Vatuikoula Joint Venture Mining Company has refused to recognise the recently registered Fiji Mineworkers' Union. Secondly, the FTUC raises the problem of workers in free trade zones, such as the garment workers: the Garment Manufacturers' Association apparently unilaterally set the employment conditions of these workers without any discussions with the Garment Workers' Association or the FTUC and, although in October 1990 a garment industry wages council was set up, it has yet to prescribe minimum rates of pay and working conditions. Moreover, the FTUC states that the council has a majority of government and employer representatives who have proposed - through the media - minimum rates of pay that are well below the cost-of-living in Fiji. Thirdly, the

FTUC reports that the Government has failed to reactivate the Tripartite Forum, which apparently was last convened in 1985.

4. Lastly, the FTUC refers to a government announcement of April 1989 that it would amend trade union legislation in order to remove the existing rights of several categories of workers; although no action has been taken in this direction, the FTUC sees this as a real threat.

5. Since the Government has not replied to these comments of the FTUC, the Committee asks the Government to send its observations so that the Committee will be in a position to examine the situation as a whole at its next meeting.

Finland (ratification: 1951)

The Committee takes note of the report submitted by the Government, which includes comments by the Finnish Employers' Confederation (STK), the Employers' Confederation of Services Industries (LTK) and the Central Organisation of Finnish Trade Unions (SAK).

Referring to its previous comments relating to the insufficiency of penalties incurred by employers committing acts of anti-union discrimination and to the issue of burden of proof in such cases, the Committee notes from the Government's report that the degree to which it is possible for the parties to prove a certain fact is always taken into account. Therefore, while an employee alleging that he has been dismissed because of his union activities must present general evidence to that effect, under section 37(2) of the Employment Contracts Act, the employer must always prove that there was a substantial reason for the dismissal. The Committee further notes with interest that the Government was to table in Parliament, in the autumn of 1990, a proposal with a view to raising to 24 months' pay the maximum compensation for illegal dismissals, and that, since 1 March 1990, the protection afforded to shop stewards has been improved, including before and after their term as staff representatives.

The Committee notes however that, according to SAK, the penalties which guarantee security against discrimination are insufficient to have a preventive effect in the case of all unionised workers, and that the usefulness of sanctions is hindered by the fact that employees bear the burden of proof.

The Committee requests the Government to communicate, as soon as it is adopted, the text of the Act improving the protection afforded to shop stewards and raising the maximum compensation for illegal dismissals, and to provide in its future reports information on the practical application of the Convention in this regard.

The STK reiterates and the LTK states that the fact that acts of discrimination between employees (such as that which occurs when unionised employees put pressure on non-unionised employees to join trade unions) does not constitute a criminal offence is a serious defect. The Committee recalls in this respect that the protection afforded by Convention No. 98 against acts of anti-union

discrimination concerns such acts by employers against workers, and not acts of this kind by trade unions.

Gabon (ratification: 1961)

With reference to its previous comment concerning the need to adopt legislative provisions in order to give full effect to Articles 1 and 2 of the Convention, the Committee notes from the information supplied by the Government that the work of revising Act No. 5/78 to issue the Labour Code are well under way.

The Committee points out that, even if, as it emphasised in its previous observation, the provisions of the Common Agreement cover the gaps identified in the law with regard to Article 1 of the Convention (and, according to the previous comments made by the Employers' Confederation of Gabon, all the agreements signed since 1982 have included these provisions), legislative provisions accompanied by sufficiently effective and dissuasive sanctions need to be adopted in order to give workers adequate protection against acts of anti-union discrimination and workers' organisations protection against acts of interference by employers.

The Committee trusts that the work of revising the Labour Code will be completed in the near future and requests the Government to supply information on the measures that have been taken in order to bring the legislation into greater conformity with Articles 1 and 2 of the Convention.

Greece (ratification: 1962)

The Committee notes the Government's report and the provisions of Act No. 1876 of 7 March 1990 respecting free collective bargaining, which replaces Act No. 3239 of 1955 respecting collective bargaining and industrial disputes. It also notes the comments of the Panhellenic Federation of Caterers and Tourist Trade Workers, of 23 May 1990, of the International Union of Food and Allied Workers' Associations, of 27 June 1990, and of the General Confederation of Greek Workers, of 11 May and 26 September 1990.

The Committee notes that Act No. 1876 of 7 March 1990 is an improvement on the previous situation, since it permits bargaining at the level of enterprises, branches and professions and sets out the right and obligation to negotiate. Nevertheless, the Committee notes with regret that trade union organisations have indicated on two occasions, in May 1990 and September 1990, that the Government has acted arbitrarily to reduce wage increases provided for in the national labour convention, with the result that the workers have lost 13 per cent of their purchasing power. It also regrets that the Government has not supplied comments in this respect.

In these circumstances, the Committee recalls that the principle of the voluntary negotiation of agreements, and therefore of the autonomy of the social partners, is a fundamental aspect of freedom of association. With regard to wage negotiations, the Committee has always indicated that where, for compelling reasons of national,

economic and social interest, a government considers that it would not be possible for wage rates to be fixed freely by means of collective negotiations, such a restriction should be imposed as an exceptional measure and only to the extent necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers' living standards.

The Committee regrets the successive interventions of the public authorities in wage negotiations and recalls that persuasion should be preferred to constraint. It requests the Government to indicate in its next report the measures that have been taken to re-establish the autonomy of the social partners in the negotiation procedures respecting wage increases.

The Committee is also addressing a request directly to the Government concerning the scope of Act No. 1876 of 7 March 1990.

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

Guatemala (ratification: 1952)

Article 1 of the Convention. In previous comments, the Committee urged the Government to indicate the measures it had taken to re-examine, in the light of inflation, section 272 (a) of the Labour Code of 1961, which lays down a fine of between 100 and 1,000 quetzales for employers who make it compulsory or attempt to make it compulsory for workers to leave the unions of which they are members or to join trade unions (section 62 (c)) so that this sanction retains its dissuasive nature.

The Committee notes that a draft Labour Code which takes account of the Committee's comments has been approved at first reading and is now before the Congress of the Republic for examination and analysis.

The Committee hopes that the draft Labour Code will be adopted in the near future and that the final version will provide for sufficiently effective and dissuasive sanctions for all cases of anti-union discrimination. The Committee asks the Government to report on this matter.

Haiti (ratification: 1957)

The Committee takes note of the information supplied at the Conference Committee in 1989 and of the Government's report.

In its previous observation, the Committee asked the Government to report on the progress of (1) the revision of section 34 of the Decree of 4 November 1983, which confers on the Service of Social Organisations the power to intervene in the preparation of collective agreements, and (2) the adoption of specific provisions prescribing protective measures against anti-union discrimination at the time of recruitment and reinstatement of workers dismissed on grounds of legitimate trade union activities.

The Committee notes that, in its reports, the Government indicates that the committee in charge of reforming the Labour Code is engaged in a comprehensive examination of the Decrees being drafted to

amend section 34 of the Decree of 4 November 1983 and the Decrees concerning protective measures against anti-union discrimination.

The Committee trusts that, in view of the recent changes in Haiti, the Government will be in a position to provide information in its next report on the measures taken by the above committee to bring the legislation into full conformity with the Convention.

Indonesia (ratification: 1957)

Referring to its previous observations, the Committee takes note of the Government's report and the follow-up information supplied by the Government on Case No. 1431, noted by the Governing Body at its May-June and November 1990 Sessions (272nd Report, para. 19 and 275th Report, para. 19).

The Committee recalls that its comments had concerned the following points:

- the absence of sufficiently specific legislative provisions to protect workers against acts of anti-union discrimination at the time of recruitment or during the employment relationship (Article 1 of the Convention);
- similarly, the absence of sufficiently detailed legislative provisions to protect workers' organisations against acts of interference by employers or their organisations (Article 2);
- the restriction on free collective bargaining whereby only federations covering at least 20 provinces and grouping a large number of trade unions may conclude collective agreements, which is contrary to Article 4.

1. Protection against acts of anti-union discrimination. The Committee notes that the Government repeats its previous statements that the provisions of Act No. 12/1964 and of Ministerial Regulation No. PER.04/MEN/1986 implementing it do provide sufficient protection at the time of recruitment and during the employment relationship, but makes no reference to the Regulation on Work Agreement mentioned in its previous report as a possible means of supplementing the existing legislation. It also notes that the Code of Conduct adopted by virtue of Ministerial Decision No. Kep.120/MEN/1988 strengthens protection against dismissal. However, the Committee would recall in this connection that Article 1 of the Convention refers to "adequate" protection, and observes that while the current legislation goes quite some way towards granting this, the compensation provisions alone are not sufficient.

The Committee accordingly requests the Government to inform it of any measures envisaged or taken to provide specific protection against acts of anti-union discrimination at the time of recruitment (for example, is an employer's refusal to engage a worker because of his union membership covered by the Code of Conduct?) and during employment (the complaints procedure apparently available in Chapter IV(3) of the provisions set out in Ministerial Decision No. Kep.1109/MEN/1986 adopting a Manual on the establishment, development and protection of workers' unions, in case of transfers, demotions and other anti-union prejudicial measures seems insufficient).

2. Protection of workers' organisations against acts of interference by employers. The Committee notes that, according to the Government, Ministerial Regulation No. PER.05/MEN/1987 is still being reviewed, and that other texts protect unions against interference by employers, namely Ministerial Decision No. Kep.120/MEN/1988 adopting a Code of Conduct for the prevention and settlement of labour disputes and Ministerial Decision No. Kep.1109/MEN/1986. The Committee requests the Government to supply information on how these two latter texts are used in practice.

3. Restrictions on collective bargaining. The Committee thanks the Government for supplying a copy of Ministerial Regulation No. 05/MEN/1987 (repealing the 1975 Ministerial Regulation criticised in previous observations). It notes with regret, however, that the new text does not substantially change the system for registration of trade unions. While it is true that the requirement that the workers' organisation be a federation has been deleted, the requirement that the labour organisation cover at least 20 provinces remains, and a further requirement has been added, namely that it covers 100 districts and 1,000 "labour units within companies" (section 2). Since Regulation No. 49 of 1954 concerning the elaboration and conclusion of collective agreements and Regulation No. Per.02/MEN/1978 on company regulations and the negotiation of an arrangement for a collective agreement both refer to registered trade unions as having the right to conclude agreements, the Committee considers that these registration requirements impose a major obstacle on the right of workers' organisations to bargain collectively. The Committee requests the Government to re-examine its legislation to bring it into conformity with the Convention, and to inform the Committee in its next report of any progress towards this.

Iraq (ratification: 1962)

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

Article 1 of the Convention. In its previous observation, the Committee noted with regret that Act No. 71 of 1987 issuing the Labour Code and Act No. 52 of 1987 on trade union organisations contain no specific provision guaranteeing application of this provision of the Convention, unlike the 1970 Labour Code (sections 21 and 29) which provided some protection for workers and trade union officers in this respect. The Committee asked the Government to adopt specific legislation ensuring the protection of workers against all acts of anti-union discrimination by employers.

The Committee notes that in response to this request, the Government merely indicates that section 127 of the Labour Code provides a restrictive list of cases where employers may dismiss workers and that none of the cases permit a worker to be dismissed on grounds of trade union activities or membership. It adds that section 2 of the Code guarantees every worker the right to work irrespective of any trade union affiliation.

The Committee observes that the sections referred to by the Government contain no specific provisions ensuring the application of

the Convention. It recalls that protection against acts of anti-union discrimination covers not only cases of dismissal but any other discriminatory measure at the time of taking up employment and during employment, for example in the event of transfers, demotions and disciplinary or other measures.

Accordingly, the Committee urges the Government to adopt specific measures to guarantee adequate protection for workers against all acts of anti-union discrimination, both at the time of taking up employment and during the working relationship, accompanied by sufficiently effective and dissuasive sanctions, and to provide information on any progress made in this respect.

Article 2. With reference to its previous observation, the Committee notes the information provided by the Government to the effect that employers' and workers' organisations have their own laws which grant them financial independence and contain no provisions allowing interference in the affairs of other organisations.

Article 4. In its previous observation, the Committee noted with regret that the provisions concerning collective agreements contained in the former Labour Code had not been reproduced in the new legislation.

The Committee notes the Government's information to the effect that the absence of legislative provisions concerning collective bargaining does not mean that the principle of free negotiation is not respected. In this connection, the Government refers to section 150 of the Labour Code under which all matters not governed by the Labour Code are regulated in conformity with the provisions of the international labour Conventions ratified by Iraq. In practice, workers' organisations discuss their employment and pay conditions when collective agreements are concluded, and the Confederation of Workers' Unions is a member of the Minimum Wage Rate Commission established under section 46 of the Code.

The Committee refers to the terms of Article 4 of the Convention and asks the Government to provide information on measures to encourage the development and utilisation of machinery for voluntary negotiation of collective agreements in the private, mixed and co-operative sectors. It also asks the Government to provide detailed information on the number of collective agreements concluded, the sectors covered and the number of workers covered by collective agreements.

Articles 4 and 6. In its previous observation, the Committee asked the Government to take measures to guarantee that persons employed by the State and workers in the socialised sector assimilated to public employees in national legislation (Act No. 150 of 1987) enjoy the rights and guarantees provided for in the Convention.

The Committee notes from the information supplied by the Government that in this respect, the status of workers (state employees and workers in the socialised sector) has not changed.

Accordingly, the Committee recalls that under Article 6 of the Convention only public servants engaged in the administration of the State are not covered by the Convention. It therefore once again requests the Government to take measures to guarantee that persons employed by the State, public enterprises and independent public institutions who are not engaged in the administration of the State

(such as teachers) and workers in the socialised sector enjoy the right to be protected against all acts of anti-union discrimination and to negotiate their conditions of employment collectively, in accordance with Articles 1 and 4 of the Convention.

Jamaica (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which related to 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.

Jordan (ratification: 1968)

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

The Committee recalls that, for several years, it has been making comments on the following points:

1. the absence of specific provisions accompanied by civil remedies and penal sanctions ensuring the protection of workers' organisations against any act of interference by employers or their organisations (Article 2 of the Convention);
2. the absence of provisions ensuring that the Convention is applied to domestic servants and agricultural workers who are not employed in government organisations or institutions for mechanical equipment or in irrigation work.

1. In the past, the Government has indicated that it was not necessary to adopt specific provisions to apply Article 2 of the Convention, because under section 33 of the Constitution of the Hashemite Kingdom of Jordan, international treaties and agreements become enforceable upon ratification. Furthermore, in its last report it states that it interprets Labour Code No. 21 of 1960, as amended, as prohibiting all interference by employers' organisations in the affairs of workers' unions.

The Committee takes note of this specific information, but points out that the legislation currently in force contains no provisions protecting workers' organisations against interference by employers or their organisations.

It again urges the Government to adopt a specific statutory provision in this respect at an early date, protecting workers' organisations against acts of interference by an employer, liable to give rise to the establishment of workers' organisations under the domination of the said employer, who would support a workers' organisation by financial or other means with the object of placing such an organisation under his control.

The Committee therefore requests the Government to indicate, in its next report, the measures it has taken to bring its legislation into conformity with the Convention.

2. In answer to its previous observation concerning the exclusion of certain agricultural and domestic workers from the protection of the Labour Code and thereby of the Convention, the Committee notes with interest that, according to the Government, the application of the provisions of the Labour Code, hitherto

limited to agricultural workers employed in government organisations, technical institutions or in permanent irrigation work, is extended in the draft new Labour Code to agricultural workers whose activities have to do with the driving, installation or repair of agricultural machinery; to administrative, financial and accountancy work in agricultural enterprises; to the manufacture and marketing of agricultural products; and to cattle-, poultry- and horse-breeding, fish-breeding, bee-keeping and other similar work.

As regards the exclusion of domestic workers from the scope of the Labour Code, the Committee notes that the draft Code continues to exclude these workers but that, on the recommendation of the responsible Minister, the Council of Ministers will be able to establish regulations concerning their situation, their conditions of work and their rights and obligations.

The Committee trusts that the new legislation currently being prepared will grant all agricultural and domestic workers, without exception, protection against acts of anti-union discrimination, as well as the right to negotiate their conditions of employment collectively. It requests the Government to provide information in its next report 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.

Liberia (ratification: 1962)

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

The Committee notes with regret 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 sufficiently effective and dissuasive 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 sufficiently effective and dissuasive 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.

Libyan Arab Jamahiriya (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:

1. For many years the Committee has been pointing out that certain provisions of the national legislation do not sufficiently implement or are not in conformity with the Convention, namely:

- section 34 of Act No. 107 of 1975 concerning trade unions, which provides protection against acts of discrimination for trade union activities during the employment relationship, but not at the time of the recruitment of a worker (Article 1 of the Convention);
- sections 63, 64, 65 and 67 of the Labour Code, which require the clauses of collective agreements to be in conformity with the economic interest (Article 4), whereas, in the Committee's opinion, rather than subjecting the validity of collective agreements to government approval, steps should be taken to persuade the parties to collective bargaining to have regard voluntarily to major economic and social policy considerations of general interest invoked by the Government (see paragraph 318 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

In its report, the Government indicates once again that proposals have been made to amend these provisions of the national legislation in order to bring them into line with the Convention.

The Committee once again trusts that the necessary measures will be taken in the near future to give effect to the Convention on these points and it requests the Government to supply information on the progress achieved.

2. The Committee notes that the Government's report does not contain any information on a number of points that were raised in its previous observations:

- (a) the right to bargain collectively of public servants not engaged in the administration of the State.

The Committee noted that by virtue of Part IV of Decision No. 184 of the General People's Committee of 1983, concerning the organisation of municipalities, the People's Committees of the public service are responsible for the recruitment of workers. The Committee once again requests the Government to indicate whether these provisions apply to public servants other than those engaged in the administration of the State whom, by virtue of Article 6, are not covered by the Convention. If this is the

case, it requests the Government to indicate the provisions under which the guarantees set out in Articles 1 and 2 and the right to freely negotiate collective agreements as laid down in Article 4 are recognised for public servants who are not engaged in the administration of the State;

- (b) the right of agricultural workers and seafarers to bargain collectively.

The Committee has been noting for several years that agricultural workers and seafarers are excluded from the scope of the Labour Code and that seafarers are governed by the Maritime Code. The Committee once again urges the Government to supply a copy of the Maritime Code and of the legislative texts that give agricultural workers and seafarers the right to organise and to bargain collectively their terms and conditions of employment 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.

Malaysia (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 its comments concerned a number of provisions of the Industrial Relations Act of 1967:

- the exclusion from collective bargaining of matters concerning promotion, transfers, recruitment, dismissal without notice, the assignment of jobs (section 13(3) of the Industrial Relations Act of 1967, as amended in 1980);
- the prohibition from including, in collective agreements for so-called "pioneer enterprises" and in all other enterprises specified by the Minister, provisions that are more favourable than those contained in Part XII of the Employment Ordinance, 1955 (section 15 of the Act);
- restrictions on the right to bargain collectively for employees in public administrations other than those engaged in the administration of the State (section 52 of the Act).

1. Restrictions on the scope of collective bargaining.

With regard to section 13(3), in its previous observation the Committee noted that, according to the information supplied by the Government, the matters excluded by virtue of the Act from the scope of collective bargaining were in fact negotiated. The Committee suggested that the Government could repeal this provision in order to bring its legislation into accordance with its practice and with the Convention on this point.

In its last report, the Government indicates that, within the framework of its industrial development policy, the objective of which is economic growth, employment must be able to develop without undue hinderances. It adds that, rather than withdrawing the legal restrictions regarding collective bargaining, it is for the social partners to remove these restrictions through collective negotiation. It also states that the Act gives the

opportunity to negotiate questions of a general nature concerning the procedure of promotions and that in the event of refusal by an employer, a trade union may make representations to the Minister.

With regard to section 15 of the Act of 1967, which, according to the Government, is only a reserve provision to protect the so-called "pioneer enterprises", the Committee notes the Government's statement in its last report to the effect that this provision is one of the measures that it has taken to promote investment, that it furthers industrial growth and employment and that it is essential in view of the cutback in public expenditure and the emphasis given to the development of the private sector.

The Committee once again points out that, even though collective bargaining may in practice cover matters excluded under the 1967 Act by section 13, and that section 15 of the 1967 Act only concerns newly constituted enterprises for a period of five years, giving their workers the minimum employment conditions established by law, these provisions nevertheless are contrary to the principles set forth in Article 4 of the Convention which lays down that measures shall be taken to encourage and promote the full development and utilisation of machinery for voluntary negotiation with a view to the regulation of terms and conditions of employment by this means.

It therefore requests the Government to supply information in its next report on the measures that have been taken or are envisaged in order to remove the restrictions on collective bargaining contained in the law.

2. With regard to the restrictions on the right to bargain collectively of employees in public administrations, the Government indicates that it is not entirely true that these employees cannot bargain collectively since five National Joint Councils provide them with this opportunity. The Government adds, in this connection, that for five years serious negotiations have taken place within these councils and have resulted in a substantial wage rise for civil service employees.

The Committee notes this information, but points out that although discussions have taken place in National Joint Councils, their recommendations, and those of the salary commissions (which may be re-examined by the Public Service Tribunal), are submitted for approval to the Cabinet Committee, which makes the final decision. In the Committee's opinion, this system does not fully afford employees in public administrations who are not in the category of public servants covered by Article 6 of the Convention, the right to negotiate collectively their terms and conditions of employment as set out in Article 4 of the Convention.

The Committee once again requests the Government to take steps to grant employees in public administrations other than public servants engaged in the administration of the State the right to negotiate collectively, without the intervention of the public authorities.

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

Mauritius (ratification: 1969)

The Committee has taken note of the reports submitted by the Government.

With reference to its previous observations and comments concerning the need to include in the labour legislation an express provision protecting workers' organisations against acts of interference, in accordance with Article 2 of the Convention, the Committee notes that, according to the Government, problems of interference have not arisen in Mauritius and cannot exist in view of the prevailing trade union pluralism. Although the Government adds that there is no urgent need to amend the legislation, a Special Law Review Committee is presently considering the Industrial Relations Act; if and when that Act is amended, the Government says it will take this opportunity to incorporate an express amendment for the protection of workers' organisations against acts of interference.

The Committee notes that the Government seems to agree on the principle of such an amendment and that, as early as 1980, the Government requested and obtained technical advice from the ILO, by way of examples of provisions deemed satisfactory for the above purposes. The Committee further recalls that the Government stated in its 1984 report that the repealing and replacement of the Industrial Act was under active consideration, and that the Mauritius Labour Congress indicated the same year that a committee set up to examine the replacement of the 1973 Industrial Act had submitted its report.

Recalling, as it did in its 1983 General Survey (paragraphs 283 and 284) that specific legislative provisions accompanied by sufficiently effective and dissuasive sanctions should be adopted to ensure that protection, the Committee hopes that such measures will be adopted and requests the Government to keep it informed of any development in this regard.

Morocco (ratification: 1957)

The Committee notes the Government's report and the conclusions of the Committee on Freedom of Association in Case No. 1499 (272nd Report of the Committee on Freedom of Association).

Article 1 of the Convention. For several years the Committee has been requesting the Government to adopt statutory provisions to provide workers with adequate protection against acts of anti-trade union discrimination, and in its previous observation it noted that the draft Code supplied in 1988 includes provisions that are in accordance with the Convention on this point.

In its report, the Government indicates that measures have been taken to speed up the procedure for the adoption of the Labour Code. The Government adds that prefectural and provincial employment delegates have been requested in a circular to take the necessary measures to encourage the conclusion of collective agreements between

the social partners, and that the agreements that have been concluded emphasise the need to respect the principles of the right to organise and to bargain collectively.

While noting this information, the Committee refers to Case No. 1499 (272nd Report of the Committee on Freedom of Association) and notes with concern that in recent years several cases of dismissal of workers for trade union activities have been examined by the Committee on Freedom of Association.

In these conditions, the Committee of Experts, in the same way as the Committee on Freedom of Association, once again urges the Government to take appropriate measures accompanied by sufficiently effective and dissuasive sanctions so that workers can exercise the trade union rights recognised in the national legislation without fear of anti-trade union reprisals, and particularly so that the provisions of the draft Labour Code are adopted in the near future. It requests the Government to supply information on the progress achieved in this respect.

Nicaragua (ratification: 1967)

The Committee takes note of the report presented by the Commission of Inquiry established in accordance with article 26 of the ILO Constitution to examine the complaint against Nicaragua concerning the application of Conventions Nos. 87, 98 and 144. The Committee notes in particular that in paragraph 546 of its recommendations the Commission of Inquiry considers that the Government should indicate, as from 1991, in its reports submitted under article 22 of the Constitution, the measures taken in law and in practice to give effect to its recommendations on the application of these Conventions in the period in question.

Consequently, the Committee asks the Government to provide detailed information on the measures taken to give effect to the recommendations of the Commission of Inquiry.

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

Pakistan (ratification: 1952)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation.

The Committee notes the Government's report and the information that it supplied to the Conference Committee in June 1988. The Committee also notes the observations made by the Pakistan National Federation of Trade Unions.

The Committee recalls that in the past it has identified divergencies between the Convention and legislative provisions relating to the employees of the Pakistan International Airlines Corporation (PIAC), to wage-fixation in the banking and financial sector, and to the position of workers in export processing zones (EPZs).

Wage-fixation in the banking and financial sector

The Committee has, on several occasions, drawn attention to the fact that sections 38A to 38I of the Industrial Relations Ordinance, 1969 as amended empower the Government to constitute a wage commission to fix wage rates and determine all the other terms and conditions of service in banks and in any other sector that may be specified by a government notification, and that these provisions restrict the exercise of voluntary negotiation as established under Article 4.

The Committee notes that, according to the Government's report, employees of banks and other financial institutions enjoy freedom of association and that in all these establishments the sole collective bargaining agent is determined by secret ballot. The bargaining agent is entitled to present to the employer a charter of demands relating to the employees' wages and conditions of service. These demands are then submitted to the wage commission which is presided over by a High Court Judge, and which gives the parties, namely the bargaining agent and the management, the opportunity to present their arguments. The Government states that on the last occasion that a Commission was established (1984) some 51 unions were invited to make submissions to the Commission before it reached its decision.

The Committee notes that, in the opinion of the Government, the decisions of the Commission are arrived at having full regard to the process of collective bargaining. According to the Government, this is borne out by the fact: (i) that the social partners are given the opportunity to discuss wages and employment issues through the agency of the Commission; (ii) that on no occasion has any party to the process questioned the impartiality of the system; and (iii) that the Commission has never made an award which lacked the support of either workers or management.

The Committee recalls that the principle of voluntary negotiation implies the establishment of procedures encouraging discussions between the parties with the aim of concluding agreements that are freely arrived at. In the Committee's opinion, if, in order to facilitate negotiation, bodies and procedures are established, their intervention should not result in restrictions on the scope of negotiation or the independence of the parties. Accordingly, the Committee requests the Government to keep it informed of any future developments in this area - in particular, whether a further Commission has been established, the outcome of its deliberations, and the reactions of the parties to that outcome.

Export processing zones

With regard to restrictions upon the right to organise and to bargain collectively for workers in EPZs, the Committee invites the Government to refer to its comments under Convention No. 87.

The Committee trusts that the Government will take the necessary measures in the near future concerning the matters discussed above in order to give full effect to the requirements of the Convention.

Panama (ratification: 1966)

The Committee notes that the Government's report only covers the period from 30 October 1988 to 30 October 1989 and does not contain any information which enables it to modify its previous comments.

In the comments that it has been making since 1967, the Committee has requested the Government to grant the right to bargain collectively to public servants not engaged in the administration of the State, since under Article 6 of the Convention it is only the narrow category of public servants engaged in the administration of the State who may be excluded from the guarantees provided for by the Convention. Since it has not noted any positive developments in relation to this question, the Committee urges the Government to take measures in the near future to bring the law and practice into conformity with the Convention.

Furthermore, the Committee notes that the Legislative Assembly has adopted Act No. 13 of 11 October 1990, which provides for restrictions on collective bargaining. More precisely, the Act provides for the extension for two years of current collective agreements and for enterprises which are being established or which have not concluded collective agreements to be excluded from the obligation to conclude collective agreements for three years. In view of the fact that these provisions do not promote collective bargaining in the sense set out in Article 4 of the Convention, the Committee requests the Government to take measures to repeal or amend the above restrictions, since the only limitation that is admissible to the principle of free collective bargaining concerns wage negotiations, in the context of a policy of stabilisation, when the Government considers that it would not be possible for wage rates to be fixed freely by means of collective negotiations; nevertheless, such a restriction should be imposed as an exceptional measure and only to the extent necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers' living standards.

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

Papua New Guinea (ratification: 1976)

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

The Committee recalls that its previous comments dealt with the need to amend the provisions of the national legislation which gives the authorities discretionary power to cancel arbitration awards or declare 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).

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

Paraguay (ratification: 1966)

The Committee takes note of the Government's report.

For many years, the Committee has been insisting on the need to adopt provisions setting out sanctions which are sufficiently efficacious and dissuasive to protect a number of categories of workers not covered by the Labour Code (public officials not engaged in the administration of the State, and public employees and workers in public enterprises) against acts of anti-union discrimination, and

to protect the organisations of these categories of workers against acts of interference by employers or their organisations (Articles 1 and 2 of the Convention), and on the need to recognise the right to collective bargaining of the organisations of these categories of workers (Articles 4 and 6) [on the last point, see the observation on the application of Convention No. 87].

The Committee notes with concern that a number of complaints of acts of anti-union discrimination have been addressed to the Committee on Freedom of Association [Cases Nos. 1275, 1341, 1368 and 1446 (251st, 259th and 277th Reports of the Committee on Freedom of Association approved by the Governing Body at its meetings of May 1987, November 1988 and February 1991)]. Furthermore, the Committee notes that the Committee on Freedom of Association, at its meeting of February 1991, asked the Government to take measures to ensure that the legislation guarantees the right to organise and to bargain collectively of workers in the (public) education sector (see 277th Report, paragraphs 148 and 150).

In its report, the Government states that the Drafting Committee of the preliminary draft of the Labour Code has taken account of the Committee's comments on the right to organise and bargain collectively of workers employed in public entities and on the right of association of public employees, with a view to promoting and protecting their economic and professional interests. According to the Government, as soon as the new Labour Code is adopted and the rights set out in the Convention are established for public officials not engaged in the administration of the State, public employees and workers in public enterprises, the corresponding sanctions will be laid down against the acts of interference and anti-union discrimination referred to in the Convention.

The Committee asks the Government to provide the text of the preliminary draft now being prepared and to indicate whether measures are being taken also to provide adequate protection for public officials engaged in the administration of the State against acts of anti-union discrimination and to protect the organisations of such officials against acts of interference by employers.

The Committee expresses the firm hope that legislation and practice will be amended in the near future so as to bring them into full conformity with the Convention. The Committee asks the Government in its next report to provide information on any measures adopted in this respect, and recalls that the Office is at the disposal of the Government for any technical assistance it may request.

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

Peru (ratification: 1960)

Article 4 of the Convention. In its previous request, the Committee noted that section 211(20) of the Constitution empowers the President of the Republic to adopt exceptional economic measures when required by the general interest. The Committee also noted that, under the terms of Presidential Decree No. 017-82-TR respecting the

economic emergency, the Government had intervened in collective bargaining in various sectors of the economy.

The Committee notes and endorses the observations contained in the recommendations of the Committee on Freedom of Association concerning Case No. 1548 (Peru), in which it regrets that restrictions have been placed on future collective negotiations by decree without consultation of the organisations of workers and employers with a view to seeking the agreement of both parties.

In this connection, the Committee reminds the Government that if wage rates cannot be fixed freely by collective bargaining because of economic stabilisation or structural adjustment policies, such restrictions should be imposed as an exceptional measure and only to the extent necessary, without exceeding a reasonable period, and should be accompanied by adequate safeguards to protect workers' living standards. In any event, the Committee considers that it is always preferable when such restrictions are adopted to seek consensus rather than impose them by decree.

The Committee asks the Government to keep it informed of any developments with regard to collective bargaining.

Poland (ratification: 1957)

With reference to its previous observation, the Committee takes note with satisfaction of the detailed information supplied by the Government concerning the activities of the State Conciliatory Commission responsible for examining the status of persons dismissed for trade union activities.

It also notes that, during the period covered by the Government's report, the authorities have not refused the registration of any collective agreements under section 241/7 of the Labour Code.

The Committee requests the Government to continue to supply information on the application, in practice, of this provision.

Portugal (ratification: 1964)

Articles 4 and 6 of the Convention. For several years the Committee has been drawing the Government's attention to the need to amend the national legislation, which requires prior authorisation from the Minister concerned for the entry into force of a collective agreement concerning public enterprises (section 24(c) of Legislative Decree No. 519/CI/79), under the terms of its right to intervene which is set out, particularly in economic and financial matters, in Legislative Decree No. 260/76 of 8 April 1976, as amended by Legislative Decree No. 25/79 of 19 February 1979 and Legislative Decree No. 29/84 of 20 January 1984.

The Committee notes with interest that section 24(c) of Legislative Decree No. 519/CI/79 has been amended by Legislative Decree No. 87/89 of 23 March 1989, the text of which was transmitted by the Government; as amended, this section provides that in the absence of the authorisation of the Minister concerned, a collective agreement may be registered with a view to its coming into force,

although the registration is not considered to be definitive until receipt of the documents containing the authorisation of the Minister concerned.

The Committee also notes, from the information supplied by the Government, that this procedure applies to a smaller number of public enterprises due to the privatisation of a number of these enterprises and to the fact that the measure only concerns public enterprises financed exclusively from public funds.

The Committee considers that the amendment introduced by Legislative Decree No. 87/89 is an improvement to the collective bargaining system in the public enterprises sector since, in particular, it avoids delays in the coming into force of collective agreements. However, it seems that the Minister concerned may still intervene in the collective bargaining process by virtue of Legislative Decree No. 260/76, as amended.

In these conditions, the Committee once again requests the Government to ensure that authorisation can only be refused for defects of form or because the provisions of the collective agreement do not conform to the minimum standards of the labour legislation, and to supply information on the cases in which the Minister concerned has refused his authorisation on the grounds of the contents of a collective agreement.

Singapore (ratification: 1965)

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

1. With reference to its earlier comments, the Committee notes with interest that the Employment (Amendment) Act of 1988 removes the prohibition on the negotiation of annual wage supplements, introduced by the Employment Act of 1968 and its amendments of 1972, 1975 and 1980, and provides that wage increases may be negotiated freely according to a system based on trading results, productivity or any other criteria agreed upon by the parties concerned (section 48(1) (2) of the 1988 Act). Under this new system, the Minister responsible may make recommendations for wage adjustments, to serve as a basis for negotiations (section 49 of the 1988 Act).

However, the Committee notes that, where an employer has never paid any annual wage supplement, the parties to the negotiations may not negotiate an annual wage supplement exceeding the equivalent of one month's wages, under penalty of sanctions (section 48(3) of the 1988 Act).

The Committee recalls in this connection that, rather than imposing restrictions on collective bargaining, the Government should take steps to persuade the parties to collective bargaining to have regard voluntarily in their negotiations to major economic and social policy considerations of general interest invoked by the Government, and that it should prefer persuasion to constraint.

2. The Committee further recalls that it addressed the following points in its earlier comments:

- exclusion from collective bargaining of issues concerning promotion, transfer, appointment, dismissal without notice and the assignment of duties (section 17 of the Industrial Relations Act) even if, according to the Government, these matters have been the subject of consultation with the unions;
- power of the Industrial Arbitration Court to refuse to register the collective agreement of newly-established enterprises, when the conditions of employment that they afford are more favourable than those set forth in Part IV of the Employment Act (section 25 of the Industrial Relations Act) even if, according to the Government, the Industrial Arbitration Court has never refused to register a collective agreement.

In the absence of any new information on these points, the Committee again requests the Government to indicate in its next report the measures taken or contemplated to remove all restrictions in the area of collective bargaining contained in the legislation (section 17 of the Industrial Relations Act), since workers' organisations must be able to negotiate freely with employers and their organisations, and not merely be consulted on all aspects of conditions of employment. It also requests the Government to indicate the measures taken or contemplated to remove the restrictions on free collective bargaining laid down by section 25 of the Act and to promote, in newly-established enterprises, the development and utilisation of voluntary collective bargaining procedures with a view to regulating conditions of employment.

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

Sri Lanka (ratification: 1972)

1. The Committee notes the Government's report, and the observations of the Ceylon Workers' Congress, and the Employers' Federation of Ceylon. It also notes the observations of the Lanka Jathika Estate Workers' Union. Certain of these latter observations referred to the application of Convention No. 135, but they raise a number of matters which appear to bear upon the application of Convention No. 98.

2. In particular, the Lanka Jathika Estate Workers' Union claims that since the nationalisation of plantations in Sri Lanka no collective agreements have been entered into between representatives of workers and management.

The Committee recalls that Article 4 of the Convention requires that measures appropriate to national conditions must be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations with a view to the regulation of terms and conditions of employment by means of

collective agreements. The situation described by the Lanka Jathika Estate Workers' Union raises some question as to the practical application of these guarantees in Sri Lanka. Accordingly, the Government is asked to provide all relevant information on the extent of collective bargaining in the plantation sector. This information should include the number and dates of all agreements currently in force.

3. For several years the Committee has been asking the Government to adopt legislative provisions to ensure full conformity with the requirements of Articles 1 and 2 of the Convention. In its report the Government indicates that such legislation cannot be introduced in the present context of the ongoing war in the north and east of the country.

The Committee is not unmindful of the difficult internal situation in the country. It must, however, point out that on a number of occasions the Government has stated that draft legislation to guarantee the application of these Articles was in an advanced state of preparation. Despite this, no such legislation has been introduced. The Committee can only express its regret at this continuing failure to bring law and practice into conformity with the Convention, and once again call upon the Government to introduce the necessary measures. It also takes this opportunity to remind the Government that the technical services of the Office are available to it in relation to the preparation of these measures.

Swaziland (ratification: 1978)

The Committee takes note of the Government's report. With reference to its previous comments, particularly the detailed observation of 1989, the Committee recalls that the discrepancies between national legislation and the Convention concern the following points which derive from the 1980 Industrial Relations Act.

Article 2 of the Convention. The need to adopt a specific provision accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organisations against acts of interference by employers or their organisations.

Article 4 of the Convention. The need to restrict the occupational tribunals' power to refuse registration of collective agreements. The tribunal should not be able to refuse registration except on procedural grounds or because the clauses of the agreements are not consistent with the minimum standards of labour legislation, whereas at present the tribunal is able to refuse registration of collective agreements that are not consistent with government directives on wages and wage levels.

The Government states that it requested and obtained technical assistance from the ILO and hopes to be able to amend the 1980 Industrial Relations Act so as to make it compatible with the provisions of the Convention.

The Committee notes that the Government is currently receiving technical assistance from the ILO to revise its labour legislation and trusts that it will take account of its previous comments so that the amended legislation will give effect to the Convention. It also hopes

that the planned amendments to the legislation will be adopted rapidly. It asks the Government to state exactly what measures have already been taken to this end and to provide the texts of the amendments as soon as they are adopted.

United Republic of Tanzania (ratification: 1962)

The Committee notes the Government's report and recalls that its previous comments concerned the legal requirement that negotiated or voluntary collective agreements be registered by the Permanent Labour Tribunal and that, in the event of their non-conformity with the Government's economic policies, registration would be refused, or accepted after modification of their clauses, without the possibility of appealing (sections 4, 6, 16, 22, 23, 27 and 39 of the Permanent Labour Tribunal Act, No. 41 of 1967), contrary to Article 4 of the Convention.

According to the Government, although the Labour Commissioner and the Minister of Labour have the power to advise the Tribunal to modify such agreements, this is to ensure that the minimum standards provided for in the legislation are applied and is in no way designed to restrict free negotiations between employers and employees.

The Committee points out however that under sections 23(2) and 22(e) of the Act, the Tribunal has a wide discretionary power to decide whether or not to register a negotiated agreement. The Committee recalls once more that the right of employees to negotiate freely wages and terms of employment with employers is a fundamental aspect of freedom of association and that, rather than subjecting the validity of collective agreements to government approval, steps should be taken to persuade the parties to have regard voluntarily in their negotiations to major economic and social policy considerations and to the general interest invoked by the Government (General Survey, 1983, paragraphs 309-315).

The Committee therefore requests the Government to adopt legislative measures providing expressly that the power of the Minister of Labour as regards the registration of collective agreements is circumscribed so as to ensure that the minimum standards provided for in the legislation are applied, thus giving full effect to Article 4, which could be done during the drafting of the new Labour Code, currently under progress with the technical assistance of an ILO expert. The Committee further requests the Government to provide in its next report information on any developments in that respect.

Trinidad and Tobago (ratification: 1964)

The Committee notes the information provided by the Government in its report, as well as the comments made by the Staff Association of the Central Bank of Trinidad and Tobago (CBSA).

1. Referring to the comments it has been making since 1973 on the necessity to amend section 34 of the Industrial Relations Act, in order to allow minority unions, unable to reach a membership of 50 per

cent of the workers in a bargaining unit, to negotiate collectively employment conditions and to have the right to pursue individual grievances at least on behalf of their members, the Committee observes that the Government proposes to solicit the views of the social partners on the matter and will keep the ILO informed.

The Committee takes note of this commitment and requests the Government to provide in its next report information on the result of those consultations and on any development in that respect, including measures taken by the Government to bring its legislation into conformity with the Convention.

2. The Committee notes that, according to the CBSA, the majority of the Central Bank employees are denied access to independent third party arbitration, no meaningful collective bargaining takes place in this institution and there have been many instances of intimidation and victimisation of the union executives.

The Committee recalls that, under Article 4 of the Convention, measures must be taken by the authorities to encourage and promote the full development and utilisation of machinery for voluntary negotiation, with a view to regulating terms and conditions of employment by means of collective agreements.

The Committee invites the Government to communicate its comments on this matter and to provide copies of the relevant legislation, as well as information on the practical operation of the collective bargaining machinery in the Central Bank.

Turkey (ratification: 1952)

The Committee notes the Government's report and the information it supplied to the Conference Committee in June 1989, as well as the extensive discussion which followed. The Committee also notes the conclusions of the Freedom of Association Committee in Cases Nos. 997, 999 and 1029 (273rd and 276th Reports, May-June and November 1990) and No. 1521 (273rd Report, 275th Report, November 1990) concerning Turkey. It further notes the observations provided by the Turkish Confederation of Employers (TISK) and the Confederation of Turkish Trade Unions (TURK-IS).

The Committee has expressed for many years its concern regarding two problems in the Turkish legislation on collective bargaining: the numerical requirements imposed by section 12 of Act No. 2822 for trade unions to be allowed to negotiate a collective agreement (10 per cent of the workers in a branch and more than half of the employees in a workplace), and the procedure set out in section 33 of Act No. 2822 for compulsory arbitration in certain cases. In its last observation, the Committee also requested the Government to clarify the situation as regards public servants.

1. Concerning the issue of numerical requirements, the Committee notes once again that the Government merely reiterated its previous replies and stated that it found no grounds for any amendment initiative, in the absence of requests to that effect from workers' or employers' associations.

As the Committee repeatedly pointed out in the past, although it may be accepted that the most representative unions have preferential

or exclusive bargaining rights (provided they are based on objective and pre-established criteria), the numerical requirements in section 12 of Act No. 2822 are not in accordance with the principle of voluntary collective bargaining since, in particular, unions which have a majority membership in a workplace but not exceeding 50 per cent of the workers cannot enter into collective bargaining with the employer; similarly, a trade union meeting the 50 per cent criterion cannot bargain if it does not represent 10 per cent of the workers in the industry.

2. As regards the provisions for compulsory arbitration in certain situations (section 33 of Act No. 2822), the Government indicates once again that this provision is only intended for extremely delicate circumstances that may arise and has never been used to interfere with the operation of the free collective bargaining system.

The Committee is bound to recall in this respect that the application of the compulsory arbitration procedure established by legislation should be restricted to essential services in the strict sense of the term.

3. Concerning the situation of public servants, the Government states that the national legislation classifies public servants in three categories: civil servants, contract employees and manual workers. Only the latter have the rights to organise and to bargain collectively. The Government adds that both civil servants and contract employees are considered as engaged in the administration of the State and thus excluded from the scope of the Convention, by virtue of Article 6.

The Committee notes that these are essentially the arguments raised by the Government and dismissed by the Freedom of Association Committee in Case No. 1521. It recalls that, while the concept of public servant may vary under the various national legal systems, the exclusion from the scope of the Convention of persons who are not engaged in the administration of the State is not compatible with the requirements of Article 6 of the Convention. Accordingly, a distinction must be drawn between public servants employed in various capacities in Government ministries or comparable bodies, and other persons employed by the Government, by public undertakings or by independent public corporations.

4. The Committee further notes that two tripartite meetings were held in March and July 1990, focusing on new amendments that could possibly be made to the existing legislation. Having been dissatisfied with the outcome so far, the Government intends to carry on with the talks until a consensus becomes visible, since it wishes to find a far-reaching agreement rather than a limited one. The Government reiterates that it genuinely intends to amend its legislation.

5. Finally, the Committee notes that, while the Turkish Employers' Association (TISK) feels that no legislative change is necessary, the Confederation of Turkish Trade Unions (TURK-IS) considers that all the problems identified by the ILO still await solution; TURK-IS complains in particular that no serious progress was made in the tripartite meetings.

Taking into account all the above considerations, its repeated previous comments, the conclusions and recommendations of the Freedom of Association Committee approved by the Governing Body, the numerous opportunities of technical advice offered to the Government by the ILO, and the extensive discussions at the Conference Committee in 1986, 1987, 1988 and 1989, the Committee urges the Government:

- (a) to further and accelerate constructive tripartite discussions on amendments to be brought to its labour legislation; and
- (b) to amend its legislation along the lines suggested above, in order to encourage and promote the full development and utilisation of voluntary negotiation between workers' and employers' organisations, so that terms and conditions of employment may be regulated in this way, in accordance with Article 4 of the Convention.

The Committee requests once again the Government to report at an early date on any developments in the situation.

Uganda (ratification: 1963)

For several years the Committee has been pointing out that the employees of the Bank of Uganda, who cannot be considered as public servants engaged in the administration of the State, are excluded from the scope of the Trade Unions Decree No. 20 of 1976 and therefore do not enjoy the rights guaranteed by the Convention.

The Committee notes from the Government's report that it has entrusted a Labour Legislation Review Committee (which benefits from the assistance of an ILO expert) with the examination, in particular, of legislative provisions concerning the right of association. Furthermore, the Government states that on 1 May 1990 the Government announced its decision in principle to remove restrictions on freedom of association including those on Bank of Uganda employees and that it hopes to be able to report soon on legislative progress implementing this policy.

The Committee notes with interest this policy statement by the Government and trusts that legislation to give effect to this new policy will be adopted shortly. It asks the Government to forward a copy of the legislation as soon as it is adopted and reiterates its request that the Government indicate in its next report the measures taken to guarantee that Bank of Uganda employees enjoy the rights laid down in this Convention.

USSR (ratification: 1956)

The Committee notes from the information supplied by the Government in its report that as a result of the profound social and economic changes taking place, new needs have emerged with regard to legislation on collective bargaining. To this end, a Bill on collective agreements and conventions was sent to the ILO for examination and was submitted, in September 1990, to the special commission of the Council of the Union. It is to be given priority examination at the next session of the USSR Supreme Soviet.

The Committee asks the Government to provide the text of the new law or the most recent version of the Bill, as appropriate, with its next report.

United Kingdom (ratification: 1950)

1. The Committee notes the report of the Government, and the communications from the Trades Union Congress (TUC) dated 29 January, 22 May and 21 December 1990. It also notes the conclusions of the Committee on Freedom of Association in Case No. 1518 (275th Report of the Committee, approved by the Governing Body at its 248th Session (November 1990), paras. 53-79).

2. Article 1 of the Convention

With reference to its 1989 observation, the Committee notes with interest that section 1 of the Employment Act, 1990 makes it unlawful for an employer to refuse to employ a person on a number of grounds, including the fact that that person is a member of a trade union. Persons who consider that they have been denied employment on this ground may present a complaint to an industrial tribunal, and if their complaint is upheld the tribunal may award compensation and/or make a recommendation that the employer takes particular remedial action.

The Committee asks the Government to indicate, however, whether section 1 provides protection against denial of employment on grounds of past trade union membership or on grounds of trade union activity. It is also asked to provide a more precise indication of the remedies which are available to employees who have been subjected to unlawful discrimination, and as to the penalties (if any) which may be imposed in respect of such discrimination.

3. Article 4 of the Convention

(a) School teachers in England and Wales

With reference to the provisions of the Teachers' Pay and Conditions Act, 1987, which are not compatible with the requirements of Article 4 of the Convention, in its 1989 observation the Committee expressed the hope that any new arrangements which might be adopted in relation to the determination of pay and conditions of school teachers in England and Wales would enable such teachers to negotiate on a voluntary basis their terms and conditions of employment and their remuneration in accordance with the Convention.

In its report the Government indicates that because of delays in reaching agreement on new negotiating arrangements for teachers in England and Wales it had been necessary to extend the operation of the Teachers' Pay and Conditions Act, 1987 to 31 March 1991. On 23 July 1990, the Secretary of State for Education and Science had announced details of the Government's proposals for new negotiating arrangements to replace the system put in place by the 1987 Act. He had also indicated that it would be necessary to extend the operation of the 1987 Act for a further year to 31 March 1992 because it would not be

possible to have the new arrangements in place in time to deal with the April 1991 pay settlement. According to the Government the legislation to establish the new system was introduced in Parliament in November 1990, but had not yet become law.

The Committee notes that the proposed new arrangements were examined by the Committee on Freedom of Association in Case No. 1518. That Committee considered that the new arrangements constituted a step in the right direction in that: (i) they incorporated an element of negotiation between employers and teachers at national level; (ii) that the Government would not be a direct party to the negotiations; and (iii) that there would not be a pre-set financial limit on the negotiations. However, the Committee also considered that the new arrangements were defective in a number of respects. The most important of these was the fact that the Secretary of State still appeared to have an absolute discretion to disregard any bargaining outcome with which he or she disagreed. The Committee also expressed concerns in relation to the role of the proposed Advisory Committee and as to the proposals relating to "opting out" of national level negotiations at the instance of local education authorities.

The present Committee shares the views of the Committee on Freedom of Association in relation to these new bargaining arrangements, and calls upon the Government to re-examine its proposed legislation in order to ensure: (i) that it respects the right of the parties to the collective bargaining process to conclude and to implement their agreement; and (ii) that it encourages and promotes the development and utilisation of collective bargaining machinery in the manner envisaged by Article 4 of the Convention. The Committee also considers that the operation of the Teachers' Pay and Conditions Act, 1987 should not be extended beyond 31 March 1992.

(b) Collective bargaining in the newspaper industry

By its communication of 22 May 1990 the TUC, on behalf of itself and the National Union of Journalists (NUJ), and supported by the ICFTU and the International Federation of Journalists, raises certain concerns as to the lack of legislative provision whereby employers can be obliged to engage in collective bargaining with the trade unions to which their employees belong. According to the TUC the absence of such machinery is not in conformity with the Government's obligations under Article 4 of the Convention. In support of these assertions the TUC provides detailed evidence of the unilateral withdrawal of established negotiating rights in the newspaper industry in circumstances where the union concerned (the NUJ) had no legal means to oblige the employer concerned to negotiate with it, despite the fact that the great majority of journalists employed by the newspaper in question were members of the NUJ.

The Committee recalls that it has always attached great importance to the principle that employers should, for the purposes of collective bargaining, recognise the organisations which are representative of the workers they employ [General Survey, 1983, para. 296]. However, the Committee has never taken the view that conformity with Article 4 requires that there must be in place machinery whereby employers can be obliged to negotiate with such organisations. Like

the Committee on Freedom of Association, the Committee considers that intervention of this nature would alter the "voluntary" nature of bargaining (Digest of decisions and principles of the Freedom of Association Committee, 3rd edition, 1985, para. 614).

Uruguay (ratification: 1954)

The Committee takes note of the Government's report and regrets that it does not contain a reply to the communication dispatched on 15 August 1989 by the Association of Secondary School Teachers (ADES) which reported that teachers were in a difficult situation regarding the level of their wages. According to that organisation, teachers' wages are determined by the State since there is no legal framework for collective bargaining.

For many years the Committee has been calling for the adoption of measures to encourage and promote procedures for the voluntary negotiation of collective agreements by employers and organisations of public servants not engaged in the administration of the State with a view to the regulation by such means of their terms and conditions of employment, so as to ensure the full application of Articles 4 and 6 of the Convention. The Committee notes with interest that according to indications in the Government's report, representatives of the Government and of the Inter-Union Workers' Assembly (PIT-CNT) have continued dialogue with a view to identifying machinery to enable public servants not engaged in the administration of the State to bargain their terms and conditions of work collectively.

The Committee notes that, according to the Government's report, there has been progress in this regard and that a collective agreement for the banking sector - which includes the state bank whose employees are public servants in state commercial bodies - has been drawn up.

The Committee hopes that progress will continue to be made and that, in the near future, organisations of public servants in autonomous undertakings and decentralised services (public companies), including teaching establishments and, generally, organisations of public servants not engaged in the administration of the State, will be able to rely on legislation granting them the right to collective bargaining.

Venezuela (ratification: 1968)

The Committee notes the Government's report and the contents of the new Organic Labour Act of 27 November 1990.

In its previous direct request, the Committee criticised the Organic Act respecting the national armed forces, which, as amended in 1983, prohibits the conclusion of collective labour agreements between civilian staff employed by the armed forces and independent institutes and state enterprises dependent on the Ministry of Defence. The Committee indicated that only public servants engaged in the administration of the State and the armed forces lay outside the scope of the Convention (Articles 5 and 6 of the Convention).

The Committee notes with interest that the new Organic Labour Act provides that staff employed in providing services for the armed forces shall enjoy benefits that are not inferior to those enjoyed by workers covered by the Act in so far as this is compatible with the nature of their work (section 7) and that public servants and employees who hold career positions shall have the right to bargain collectively (section 8).

The Committee requests the Government to indicate whether these provisions permit collective agreements to be concluded between the organisations of civilian staff employed by the armed forces and independent institutes and state enterprises dependent on the Ministry of Defence.

The Committee also reminded the Government, with reference to Articles 1 and 3 of the Convention, of the importance of providing for sufficiently effective and dissuasive penalties, and particularly heavy fines, against acts of anti-union discrimination and interference, and it hoped that practical steps would be taken in this respect.

In this connection, the Committee notes that the new Organic Labour Act, in sections 637 and 639, prescribes fines only of a sum between one-quarter and twice the minimum monthly wage in the event of the employer violating the legal guarantees of freedom of association or refusing to respect an order to reinstate a worker who is protected by legal provisions respecting the right of association. The Committee therefore requests the Government to consider the adoption of measures to ensure that the penalties that are applicable in the event of anti-union discrimination and interference are sufficiently effective and dissuasive.

Republic of Yemen (ratification: 1969)

Referring to its general observation, the Committee notes that the Government's report has not been received. It recalls its previous observation which read as follows:

North Yemen

1. In its previous observation, the Committee requested the Government to take specific measures accompanied by sufficiently effective and dissuasive sanctions in order to guarantee: (a) the protection of workers against any act of anti-union discrimination by employers both at the time of recruitment and during employment, in accordance with Article 1 of the Convention; and (b) the protection of workers' organisations against acts of interference by employers, in accordance with Article 2.

In its report, the Government refers once again to the constitutional guarantees respecting the rights and freedoms of citizens, and to the provisions of the Labour Code, which provide that the dignity and religious opinions of workers shall be respected, and which recognise the right of workers to vote for

trade union purposes during employment (section 45 of the Labour Code).

The Committee emphasises that the protection set out in Articles 1 and 2 of the Convention must be guaranteed by appropriate measures, particularly legislative provisions, which are all the more necessary when the trade union movement is still at the stage of consolidation.

In order to ensure that effect is given to the Convention, the Committee therefore requests the Government to adopt, in the legislation, specific provisions to guarantee expressly the protection of workers against acts of anti-union discrimination and the protection of workers' organisations against acts of interference by employers or employers' organisations, accompanied by sufficiently effective and dissuasive sanctions, and to indicate in its next report the measures that have been taken in this respect.

2. In its previous observation, the Committee requested the Government to take measures to encourage the collective negotiation of terms and conditions of employment, in view of the fact that no collective agreement had yet been concluded.

In its report, the Government refers to the provisions of the Labour Code that regulate the terms and conditions of employment within the context of individual negotiations (Chapter IV of the Labour Code). In the Committee's opinion, the information supplied illustrates that the collective bargaining process has still not been implemented, although, however, new trade unions have been established in various industrial branches.

The Committee therefore requests the Government, under the terms of Article 4 of the Convention, that appropriate measures be taken to encourage and promote the full development and utilisation of machinery for voluntary negotiation of collective agreements between the social partners, in order to establish by this means terms and conditions of employment and thereby make it possible for the trade unions to play fully their part in promoting and defending the rights and interests of their members, in accordance with the Convention and the by-laws of the trade unions.

3. The Committee also notes that sections 68, 69 and 71 of the Labour Code, which were the subject of previous comments, concerning the compulsory registration of a collective agreement and its cancellation in the event of it not conforming to the security and economic interests of the country, will be examined within the framework of the current revision of the Labour Code.

Although these provisions do not appear to be applied in practice, in the absence of any collective contract, the Committee points out that they are contrary to the principle of Article 4, under which collective bargaining must be free and cannot be subject to legal restrictions.

The Committee notes that one of the objectives pursued by trade unions, under the terms of section 5(c) of the Regulations concerning the statutes of trade unions, is to represent workers in debates on matters which concern them on bodies set up for this purpose. It hopes that the above provisions will be amended

and that, within the context of measures to promote free and voluntary negotiation, appropriate machinery will be set up in order to associate the social partners on a voluntary basis with the formulation of the Government's economic and social policy. It requests the Government to indicate in its next report the measures that have been taken to this effect.

South Yemen

The Committee is 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.

The Committee trusts that the legislative revision that is taking place will take all these points into consideration and asks the Government to supply the relevant texts with its next report.

Zaire (ratification: 1969)

1. With reference to its previous comments, the Committee notes from the information supplied by the Government that the draft Code adopted by the National Labour Council contains practical provisions to protect employers' and workers' organisations from acts of interference by each other and provides for a strengthening of the penalties applicable to an employer who commits acts of anti-trade union discrimination in respect of employment.

The Committee would be grateful if the Government would, as it undertook to do in its report, supply the text of the revised Labour Code when it has been adopted by the competent authority.

2. In its previous comment, the Committee requested the Government to indicate whether the measures taken by the Executive Council to fix the rates of wage increases in public enterprises, to which it referred in a previous report, were still in force.

In its report, the Government points out that the right of free collective bargaining is recognised for these enterprises in accordance with section 266 of the Labour Code and sections 13 and 14 of the National Inter-Occupational Collective Agreement. According to the Government, wage increases in public enterprises are agreed upon through free collective bargaining between employers' organisations (or an individual employer) and workers' organisations on the basis of the minimum wage (SMIG) fixed by order of the President after consultation with the National Labour Council and at the proposal of the Minister concerned.

While noting this information, the Committee requests the Government to indicate the measures taken by the Executive Council during the period covered by its next report as regards wages policy and to supply information on the manner in which the collective bargaining process in the public sector is carried out, including the number of collective agreements concluded and specifying the public servants (excluding those engaged in the administration of the State)

whose terms and conditions of employment and wages are determined by collective bargaining.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Austria, Barbados, Belize, Benin, Bolivia, Brazil, Byelorussian SSR, Cape Verde, Central African Republic, Chad, Comoros, Côte d'Ivoire, Dominican Republic, Ethiopia, Germany, Greece, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Indonesia, Ireland, Kenya, Lebanon, Malawi, Malaysia, Mali, Morocco, Niger, Philippines, Rwanda, Saint Lucia, Sierra Leone, Sweden, Syrian Arab Republic, Ukrainian SSR, Republic of Yemen.

Information supplied by Australia, Ghana, Iceland, Malta, Poland, Senegal, Sri Lanka, Togo, Uganda, United Kingdom, in answer to direct requests has been noted by the Committee.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Requests regarding certain points are being addressed directly to the following States: Grenada, Guatemala, Ireland, Mauritius, Seychelles.

Convention No. 100: Equal Remuneration, 1951

Germany (ratification: 1956)

In its previous comments on the criteria used in job classification, the Committee had referred in particular to wage groups for "light work" (having their origin in former female wage categories).

The Committee notes with interest that the Federal Labour Court has concluded in two recent decisions (4AZR 707 and 4AZR 713/87 of 27 April 1988) that, in defining the term "light physical work", not only the previously accepted criterion of muscle demand should be taken into account, but also all factors that put pressure on workers and result in physical reactions (including standing or maintaining certain positions, repetitive work, nervous strain and noise, or the pulse rate at work). The Court also considered, having taken account of expert opinion on the average male and female physical capacity, that the difficulty inherent in one and the same job should be calculated according to the respective strength of the man or woman doing the job.

The Committee requests the Government to continue to provide information on developments in the application of the principle of the Convention, including any relevant court decisions.

India (ratification: 1959)

The Committee notes the information supplied by the Government in its report and the comments communicated to the ILO in March 1989 by the Centre Of Indian Trade Unions (CITU) concerning non-implementation of the Equal Remuneration Act, 1976.

1. Referring to its previous observation, the Committee notes with interest that the Equal Remuneration (Amendment) Act, 1987, came into effect in December 1987. By virtue of this Act, the Equal Remuneration Act, 1976 now: (i) prohibits discrimination against women, not only as concerns recruitment for the same work or work of a similar nature, but also in relation to conditions of service such as promotions, training or transfer (section 5); (ii) provides for substantially increased penalties for offences under the Act (section 10); and (iii) empowers the courts to try any offence punishable under the Act upon its own knowledge or upon a complaint made by the appropriate government or authorised officer, an aggrieved person or any recognised welfare institution or organisation (section 12). The Committee notes that 1988 and 1989 both saw a substantial increase over previous years in the number of prosecutions launched under the Act in the central sphere. It would be grateful if the Government would supply information on the extent to which this increase was accounted for by the improved complaint procedures (section 12 of the Act). Bearing in mind the Government's earlier indications concerning measures to secure better observance of the Act in the unorganised or informal sector - and noting, from the comments communicated by the CITU, the concern that central and state governments and employers' organisations should increase their efforts to overcome ignorance of the Act - the Committee requests the Government to furnish information on the measures taken or contemplated to publicise the provisions of the amended legislation at both the central and state levels. It would be of particular interest to make available information concerning any promotional or training activities directed specifically to voluntary organisations including those social welfare organisations which are now recognised under the Act for the purpose of filing complaints.

2. The Committee acknowledges the detailed information provided by the Government in response to the Committee's previous comments concerning the enforcement of the Equal Remuneration Act in state jurisdictions. It notes with interest that a centrally sponsored scheme to create the post of Labour Inspector with supporting staff to enforce exclusively legislation relating to women and child labour will be taken up on a pilot basis in four districts in each of four states; and that funds under this scheme have already been released to two states, Andhra Pradesh and Madhya Pradesh. The Committee would be grateful if the Government would continue to supply information concerning the establishment of these new agencies and their activities concerning the enforcement of the Equal Remuneration Act. The Committee also notes the following indications given by the Government in reply to previous comments regarding the application of the equal remuneration principle to specific sectors of employment in a number of states:

- (a) The Government of Bihar has made special efforts to improve the situation of workers engaged in the Beedi industry, including the constitution of a survey group to investigate the problems of the workers concerned. In addition, local officers have been advised to implement properly the provisions of the Equal Remuneration Act as concerns remuneration, the provision of proper facilities and the improvement of the position of female workers engaged in the Beedi and other industries. The Government has also reconstituted an advisory committee under the chairmanship of the Minister of Labour, Planning and Training (pursuant to section 6 of the Equal Remuneration Act which is concerned with increasing employment opportunities for women) in 24 institutions/organisations approved by the central Government. The Committee requests the Government to supply information on the results of these various initiatives, together with updated statistics on the enforcement both of the minimum wage and equal pay legislation for these workers. With reference to the Notification concerning the revision of minimum rates of wages for certain categories of employees in Beedi-making industries in Bihar (No. SO 444 of 7.5.1985) which contains a requirement for men and women to receive the same rates of wages for the same work or for work of a similar nature, the Committee would be grateful if the Government would indicate the means by which comparisons are made between the work performed by men and women as regards job categories covered by the Notification in which either men or women are mainly or predominantly employed.
- (b) The Committee notes the efforts being taken to enforce the provisions of relevant minimum wage legislation for both male and female workers, in particular from the information supplied concerning the rate of inspections and the outcome of those visits in various sectors in the different states. Given the relatively high rate of irregularity detected in, for example, the construction sector in Maharashtra, the Committee requests the Government to consider whether such cases indicate a need for special measures, such as information campaigns to ensure all workers are aware of their rights. Special measures to promote the provisions of minimum wage and equal remuneration legislation might also be considered useful in regard to those sectors where, owing to inadequate personnel and material resources, inspection visits are infrequent. The Committee would be grateful if the Government would continue to supply detailed information on the number of inspections carried out in each state, broken down where possible for particular sectors of employment. Referring furthermore to the comment communicated by the CITU concerning the failure of establishments to maintain records as required under section 8 of the Equal Remuneration Act, 1976, specifically in Delhi and Maharashtra, the Committee requests the Government to indicate the measures being taken, either by the inspection services in each jurisdiction or otherwise, to ensure compliance with this aspect of the legislation.
- (c) The Committee notes that in Assam, wages for plantation workers are fixed by bilateral agreement between the management and the workers' union and as such vary from industry to industry. The

Committee requests the Government to indicate the measures it is taking or considering, either alone or in collaboration with the relevant employers' and workers' organisations, to ensure that such agreements comply with the equal remuneration legislation. In this connection, the Committee refers to the case of D'Costa v. MacKinnon, MacKenzie and Company in which, according to the comment communicated by the CITU, the Supreme Court dismissed an appeal by the employer who sought to claim that a wage agreement between the company and the relevant trade union which fixed the wages of female stenographers at a rate substantially below that of male stenographers, was outside the scope of the Equal Remuneration Act, 1976. The Committee would be grateful if the Government would supply a copy of the Supreme Court decision in this case and also provide information concerning the reported cases of other women employees of that company who made claims under the legislation.

3. In previous comments, the Committee observed that the scope of the principle of equal remuneration under the Equal Remuneration Act, 1976 (section 4) was limited to men and women performing the same work or work of a similar nature for the same employer. The Committee notes the statement of the Government to the effect that as the concept of equal pay for work of equal value is an advanced concept, it may not be possible to introduce it at the present stage of development; and in the first instance, it would be necessary and more important to implement effectively the Equal Remuneration Act, 1976, as amended. The Committee acknowledges these concerns. The Committee hopes nevertheless that the Government will examine the possibility of taking appropriate measures to encourage the progressive implementation of the principle of equal remuneration at both the central and state levels, as is suggested under Paragraph 4 of the Equal Remuneration Recommendation (No. 90) (by such measures as decreasing the differentials between rates of remuneration and providing equal increments for men and women workers performing work of equal value).

Jamaica (ratification: 1975)

1. The Committee notes that the Minimum Wage (Printing Trade) Order, 1973 which provided for sex-differentiated job categories and pay scales - on which the Committee had commented since 1980 - has been revoked by the Minimum Wage (Printing Trade) Order, 1989. The Committee notes with interest that the 1989 Order has replaced the distinct minimum rates for "male" and "female" unskilled workers with a single rate of pay for an unskilled worker.

2. The Committee notes, however, that while the 1989 Order has removed direct reference to the sex of the worker from various other categories, it has maintained both the former definitions of those categories and differentials in the respective increased minimum rates which appear to correspond to those laid down in the 1973 Order. The Committee recalls its previous comments where it expressed the hope that any review of the minimum wage orders would not result in continuing sex-related discrimination under a different denomination;

and in this connection, emphasised the importance both of determining the numbers of women and men in various job categories and of examining their duties. The Committee also recalls that, in response to a statement by the Government that the different minimum rates between men and women, as laid down in the 1973 Order, were based on the nature of the work - heavy work being required of men and light work of women - it drew the Government's attention to the value of measures to promote the objective appraisal of jobs. This would assist observance of the Convention, which provided for equal remuneration not only for men and women employed in the same category but, more generally, for men and women performing work of equal value, though of a different nature. Moreover, the Committee observed that, even in the absence of any direct and explicit reference to sex, a consideration of "light work" paid at a lower rate as typically feminine led to a systematic underestimation of female labour and to the maintenance or re-establishment of indirect discrimination.

3. In the absence of any indication that measures were taken either to evaluate and compare jobs in categories which were formerly sex-denominated by applying non-discriminatory criteria, or to ensure that those jobs are open to both sexes, the Committee must conclude that the wage distinctions based on sex in the 1973 Order have been maintained in the 1989 Order, despite the introduction of neutral language. The Committee accordingly 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 printing trade as well as in other industries, such as the garment-making trade, where the Committee has previously noted that distinctions based on sex have apparently played a role in establishing differential minimum wage rates.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Byelorussian SSR, Comoros, Cyprus, Czechoslovakia, Dominican Republic, Germany, Iceland, India, Indonesia, Iraq, Italy, Jamaica, Lebanon, Libyan Arab Jamahiriya, Malawi, Malta, Mozambique, Netherlands, Niger, Nigeria, San Marino, Sierra Leone, Syrian Arab Republic, Swaziland, Sweden, Tunisia, Republic of Yemen, Yugoslavia, Zaire.

Convention No. 101: Holidays with Pay (Agriculture), 1952

Cuba (ratification: 1954)

The Committee requests the Government to refer to the comments that it has made under Convention No. 52.

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In addition, requests regarding certain points are being addressed directly to the following States: Comoros, Costa Rica, Ecuador, Sierra Leone.

Convention No. 102: Social Security (Minimum Standards), 1952

Denmark (ratification: 1962)

Part IV (Unemployment benefit), Article 24 of the Convention (in conjunction with Article 69(1)). In reply to the Committee's previous comments, the Government, after providing certain explanations on the operation and administration of the unemployment insurance scheme, whose funds are private associations of employees or of self-employed workers, indicates that all regulations adopted on unemployment insurance have been discussed with the representatives of the employers and the workers, whose opinions are reflected in the wording of the text. With regard more particularly to section 61, subsection 3, of Act No. 114 of 14 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, the Government recalls that this provision no longer applies, 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. It indicates that this provision should be regarded in the light of the fact that, in such cases, members can influence the dispute through their trade unions and that the outcome of disputes generally also concerns members that are not directly involved in it; moreover, the trade unions can also pay benefits. Furthermore, the Committee has provided the text of the implementing regulations of above-mentioned section 61, adopted by Order No. 296 of 14 June 1985 of the Ministry of Labour after consultation with the Confederation of Danish Employers and the Federation of Danish Trade Unions which, according to the report, subscribe to it fully. The Government therefore considers that the Danish regulations on the suspension of unemployment benefit in the event of industrial dispute are not inconsistent with the Convention.

The Committee notes this information with interest. It recalls that in its previous reports the Government stated that the suspension of unemployment benefit pursuant to section 61, subsection 3, mentioned above, was to be limited only to workers involved in an industrial dispute or whose working conditions may be influenced by the outcome of such a dispute. It therefore expresses the hope that the Government will have no difficulty in supplementing, in a future revision of the legislation, section 61, subsection 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 work stoppage due to a trade dispute, as provided for in Article 69(1)

of the Convention. It asks the Government to provide information on any further developments in this respect in its next reports.

Germany (ratification: 1958)

Part XIII (Common provisions), Article 69(i) of the Convention. The Committee notes the comments made by the German Confederation of Trade Unions (DGB), dated 19 March 1990, concerning the implementation of Article 69(i) of the Convention. According to the above organisation, section 116 of the federal Employment Promotion Act, as amended in 1986, is not consistent with the Convention. The above communication was brought to the attention of the Government by the International Labour Office on 30 March 1990.

In this connection, the Committee recalls that it commented on the question of the suspension of unemployment benefit in the event of trade disputes in its 1989 observation in which it asked the Government to continue to provide information on the way in which practical effect is given to the provisions of section 116 of the Employment Promotion Act and the last subsection of section 133 of the same Act, as amended by the Act of 1986. It also asked the Government to provide copies of any rulings issued by the Neutrality Committee.

Consequently, the Committee again expresses the hope that the Government will not fail to provide the information requested in its next report, together with any other comments it deems appropriate on the latest communication from the German Trade Union Confederation. It would be grateful if the Government would also provide the text of any rulings on the constitutionality of section 116 of the Employment Promotion Act, as amended.

Greece (ratification: 1955)

With reference to its previous comments, the Committee notes that the Government's report contains no new information on certain points raised previously. Accordingly, the Committee must address the question again in a new direct request in the hope that the Government will not fail to communicate the information requested.

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

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:

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

Niger (ratification: 1966)

1. The Committee notes the information supplied by the Government, and particularly the information concerning Article 76, paragraph 1(b)(ii), of the Convention (in conjunction with Article 65 or 66) concerning the amounts of old-age benefit, employment accident benefit and maternity benefit.

2. Part V (old-age benefit), Articles 28 and 29. In reply to the Committee's previous comments, the Government has supplied information on the system of a single allowance that is applicable in cases in which the conditions for the payment of an old-age pension have not been fulfilled. According to the report, insured persons who have not been able to pay contributions over the three or five last years prior to the pensionable date are only entitled to the provision of an allowance. The Committee wishes to draw the Government's attention to the fact that, according to section 13(1)(b) of Decree No. 67-025 of 1967, it is sufficient, as regards the conditions of entitlement to benefits, to have completed 60 months of insurance during the ten years prior to the pensionable date in order to be entitled to an old-age pension. The Committee therefore requests the Government to indicate whether an insured person who fulfils the conditions set out in section 13(1)(a) and has paid contributions during the 60 first months of the ten-year period prior to the pensionable date is entitled to a pension. If so, it would be grateful if the Government would indicate the rules and the manner of calculation of the reference wage that serves as a basis for determining the amount of the old-age pension.

3. Part VII (family benefit). (a) Article 43 (length of qualifying period). The Committee notes that an actuarial study of the social security scheme is being undertaken. It hopes that the

results of this study will enable the Government to take the necessary measures to reduce to three months, in accordance with the Convention, the qualifying period for entitlement to family benefit, which is currently set at six consecutive months of work with one or several employers (sections 8 and 9 of Decree No. 65-116 of 18 August 1965), particularly since the report refers to a surplus in the family benefit branch.

(b) Article 44 (in conjunction with Article 76, paragraph 1(b)(ii)). The Committee notes the information supplied by the Government, and in particular the amount of the wages of a labourer. It notes, however, that the information that is provided is not sufficient to enable it to assess whether the total amount of family benefit provided reaches the level prescribed by the Convention. It therefore requests the Government to supply in its next report all the statistical information required by the report form adopted by the Governing Body under this Article of the Convention:

- (1) the total amount of benefit in cash and in kind provided in respect of the children of the persons protected;
- (2) the total number of children of persons protected;
- (3) the total wage of an ordinary adult male labourer, determined in accordance with Article 66.

4. Part XI, Article 65, paragraph 10, and Article 66, paragraph 8 (review of current periodical payments). With reference to its general observation of 1989, the Committee would be grateful if the Government would supply information on the measures that have been taken to ensure the application of these provisions of the Convention, which specify that current periodical payments in respect of old age, employment injury (except in the case of temporary incapacity) shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

5. Part XIII (common provisions), Article 69(b) (in conjunction with Articles 30 and 38). In its report, the Government refers once again to the studies that are under way to bring section 23(2) of Decree No. 67-025 of 1967 into conformity with Article 69(b) of the Convention, particularly as regards the suspension of the pension while the insured person serves a period of imprisonment. While noting this information, the Committee is bound once again to hope that it will be possible to supplement the national legislation in the near future by a provision that lays down, in accordance with the Convention, that as long as the insured person is maintained at public expense (as is the case with imprisonment) and the amount of the benefits exceeds the cost of such maintenance, the benefit in excess of the value of the maintenance shall be granted to the dependants of the beneficiary.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Denmark, Greece, Ireland, Libyan Arab Jamahiriya, Mauritania, Netherlands, Zaire.

Convention No. 103: Maternity Protection (Revised), 1952Austria (ratification: 1969)

1. Article 6 of the Convention. (a) In reply to the Committee's previous comments, the Government states that cases are increasingly frequent in which the regulations concerning protection against wrongful dismissal, as laid down in the Maternity Protection Act, are circumvented, by employing young women under fixed-term contracts. On the expiry of their contract, women who are unable to find other employment during their pregnancy, lose a number of benefits. The Government adds that a draft amendment to the Maternity Protection Act was prepared with a view to introducing a regulation to make it more difficult to terminate an employment relationship concluded for a fixed term if the temporary nature of the contract cannot be justified objectively. The Committee however understands that this proposal to strengthen protection against wrongful dismissal has been laid aside in favour of a solution based on protection through social security. By virtue of the Act to extend maternity leave (BGBl, No. 408/1990), women workers are entitled after 13 weeks or three months of continuous employment to a maternity allowance if the period falling between the commencement of the contingency (that is, the beginning of the period of protection) and the end of the employment relationship does not exceed 32 weeks.

The Committee takes due note of this information. It would be grateful if the Government would continue supplying information in future reports on any measures that have been taken to give more effective protection to pregnant women against illegal dismissals and, in particular, to prevent employers circumventing the provisions of the law through fixed-term contracts, so as to give better effect in practice to this provision of the Convention.

(b) The Committee notes that the report contains no new information as regards the measures to be taken to bring sections 10 and 12 of the Maternity Protection Act and sections 102 and 103 of the Agricultural Labour Act into full conformity with the Convention. The Committee is therefore bound to recall that the above provisions of the national legislation, while providing certain guarantees against wrongful dismissal and setting out a longer period of protection, are not sufficient to give effect to Article 6 of the Convention. The Committee therefore hopes that the Government will be able to take the necessary legislative measures in the near future to ensure full conformity with this provision of the Convention which provides that, while a woman is absent from work in accordance with the provisions of Article 3 of this Convention, it shall not be lawful for her employer to give her notice of dismissal during such absence, or to give her notice of dismissal at such a time that the notice would expire during such absence.

2. With regard to the comments made by the Austrian Congress of Chambers of Workers concerning the application of Article 4, paragraph 6, of the Convention, which were transmitted by the Government with

its report, the Committee refers to the request that it is addressing directly to the Government.

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

Brazil (ratification: 1965)

Article 6 of the Convention. In its previous comments, the Committee drew the Government's attention to the fact that article 10, paragraph II (b), of the Transitional Provisions of the Federal Constitution of Brazil which prohibits the dismissal in an arbitrary manner or without valid grounds of a women worker during her pregnancy and the period of five months after confinement, is not fully in conformity with Article 6 of the Convention, as the Convention provides that it is not lawful in any circumstances to give notice of dismissal to a women during her maternity leave or at such a time that the notice would expire during such absence.

In its reply, the Government also refers to article 7, paragraph XVIII, of the Federal Constitution, which provides for 120 days of maternity leave without prejudice to employment or salary. The Government considers that this provision guarantees protection for women on maternity leave against any kind of dismissal during such leave; outside the leave period, the woman is protected by article 10, paragraph II(b), of the Transitional Provisions which applies pending the enactment of supplementary legislation provided for in article 7, paragraph I, of the Constitution. The Government adds that the supplementary legislation will take account of the provisions of the Constitution and of ILO Convention No. 103 by virtue of the principle that international treaties take precedence over domestic law.

The Committee takes due note of this information and hopes that the above supplementary legislation will be adopted in the near future and will provide explicitly and in accordance with Article 6 of the Convention that it is unlawful to dismiss a woman worker in any circumstances during her maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence. It hopes that in its next report the Government will provide detailed information on progress made in this respect and, if appropriate, the text of the supplementary legislation once it has been adopted.

Ecuador (ratification: 1962)

1. (1) The Committee notes from the Government's reply to its earlier comments that the Legislative Committee on Social and Penal Matters is going to approve a draft legislation concerning the protection of women during the period before and after confinement which would satisfy the requirements of the Convention. It observes, however, that no measures have yet been adopted in order to bring the national legislation into conformity with the following provisions of the Convention: (a) Article 3, paragraphs 2 and 3 (total length of maternity leave of at least 12 weeks, of which six weeks of compulsory

leave to be taken after confinement); (b) Article 3, paragraph 4 (extension of pre-natal leave until the actual date of confinement without reduction of post-natal leave); and (c) Article 5, paragraph 2 (breaks for the purpose of nursing to be counted as working hours and remunerated accordingly).

The Committee recalls that this matter has been the subject of comment for many years and reiterates its hope that the Government will not fail to take necessary measures in order to introduce amendments to sections 153 to 156 of the Labour Code, as already expressed by the Government in its previous reports, in order to ensure the application of the above-mentioned provisions of the Convention.

(2) Article 4, paragraph 1. The Committee hopes that the above-mentioned draft legislation would also provide for the extension of the period during which cash and medical benefits shall be granted, so as to cover a period of the maternity leave of 12 weeks, as provided for in the Convention. The Committee can but reiterate its hope that such measures will be adopted in the near future 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 grateful if the Government would supply statistical information not only on the number of women workers covered both by the compulsory insurance scheme and by the peasants' social insurance scheme, but also on their percentage in relation to all women workers of the country. It once again requests the Government 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 1991.]

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

Convention No. 104: Abolition of Penal Sanctions (Indigenous Workers), 1955

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

Convention No. 105: Abolition of Forced Labour, 1957

Afghanistan (ratification: 1963)

Article 1(a) of the Convention. In comments made for a number of years, the Committee has noted that prison sentences involving an

obligation to perform labour may be imposed under the following provisions of the Penal Code:

- (a) sections 184(3), 197(1)(a) and 240 concerning, inter alia, the publication and propagation of news, information, false or self-interested statements, biased or inciting propaganda concerning internal affairs of the country which reduces the prestige and standing of the State, or for the purpose of harming public interest and goods;
- (b) sections 221(1), (4) and (5) concerning a person who creates, establishes, organises or administers an organisation under the name of a party, society, union or group with the aim of disturbing and nullifying one of the basic and accepted national values in the political, social, economic or cultural spheres of the State, or makes propaganda for its extension or attraction to it, by whatever means it may be, or who joins such an organisation or establishes relations, himself or through someone else with such an organisation or one of its branches.

The Committee had noted the Government's indication that the obligation to perform prison labour provided for under section 3 of the Prisons Law covers persons convicted under the above-mentioned sections of the Penal Code as well as those convicted of other misdemeanours and crimes; under section 13 of the Prisons Law, those convicted under the above-mentioned sections of the Penal Code are kept in custody separately from ordinary prisoners, and are also engaged in different activities to keep themselves physically healthy and to provide themselves with gainful employment for which they are fully paid.

While noting the special status given to prisoners convicted under the above-mentioned sections of the Penal Code, the Committee pointed out that the imposition of sanctions involving compulsory labour on these persons remains contrary to the Convention.

The Committee has taken note of the report by a special rapporteur on the situation of human rights in Afghanistan submitted to the United Nations Commission on Human Rights at its 47th Session, 1991 (Doc. E/CN.4/1991/3). The report refers to indications by the Minister of the Interior that there are 2,530 political prisoners in the country; the report also refers to allegations by opposition forces that this number is much higher.

The Committee hopes that the penal provisions will be examined in the light of the Convention with a view to ensuring that no sanctions involving forced or compulsory labour may be imposed as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system and that the Government will indicate the measures taken to this end.

Angola (ratification: 1976)

The Committee notes the information supplied by the Government in its report. It has also noted the discussion which has taken place at the Conference Committee in 1990.

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.

The Committee had noted that the examination of these comments had begun. In its latest report the Government indicates that the Act is being revised and that letters (a), (b), (e) and (k) of section 1 have already been repealed.

The Committee observes that its comments bear on letters (g), (h) and (m) in addition to letter (a) of section 1 of Act No. 11/75.

The Committee hopes that the Government will in the very near future make every effort to bring the provisions of section 1 of Act No. 11/75 into conformity with Article 1(c) and (d) of the Convention.

Belgium (ratification: 1961)

Article 1(c) of the Convention. In the comments it has been making for many years, the Committee has referred to the provisions of sections 10, 22 and 25 to 28 of the Disciplinary and Penal Code for the Merchant Marine and the Fishing Fleet, under which penalties of imprisonment involving, by virtue of section 30bis of the Penal Code, the obligation to work may be imposed for acts constituting breaches of labour discipline.

The Committee noted the Government's repeated indications that draft amendments to these provisions were being prepared but had not yet been submitted to Parliament. The Committee also noted that, according to the Government, the provisions in question are no longer applied, as ratified Conventions take precedence over domestic law.

The Committee notes the Government's statement in its last report that the Disciplinary and Penal Code for the Merchant Marine and the Fishing Fleet qualifies as "breaches of discipline" violations of the law punishable by disciplinary penalties, as "offences" violations punishable by correctional penalties, and as "crimes" those punishable by criminal penalties. According to the Government, the acts punishable under the above-mentioned sections constitute offences and not breaches of discipline; the Government adds that the Disciplinary and Penal Code for the Merchant Marine does not impose the obligation to work as a penalty for breaches of discipline.

The Committee refers to paragraphs 102 to 109 of its General Survey or 1979 on the Abolition of Forced or Compulsory Labour, in which it points out that labour imposed on persons as a consequence of a conviction in a court of law will have no relevance, in most cases, to the application of the Abolition of Forced Labour Convention but that compulsory labour in any form, including compulsory prison

labour, is covered by the 1957 Convention in so far as it is exacted in the five cases specified by that Convention. The Committee also refers to paragraphs 117 and 125 of the above General Survey and expresses the hope that the Government will re-examine the provisions in question in the light of the Convention and that it will state the measures that have been taken or are envisaged, indicating the progress of the Bill that the Government has been referring to for many years, to ensure that prison sentences involving the obligation to work cannot be imposed on sailors for breaches of labour discipline that do not endanger the safety of the vessel or the life or health of persons.

Brazil (ratification: 1965)

The Committee notes with satisfaction that Act No. 4330 of 1 June 1964, under which strikes could be declared illegal and punishable by penalties involving compulsory labour in a broad range of circumstances, and Legislative Decree No. 1632 of 4 August 1978, which prohibited strikes in services "of importance to national security" have been repealed by Act No. 7783, of 28 June 1989, respecting the exercise of the right to strike.

The Committee notes that the Government refers in its report to the process of legislative changes that is taking place in the country and which makes it difficult to give precise replies to the Committee's comments.

The Committee hopes that in its next report the Government will supply information on the following questions, which have been the subject of its previous comments:

Article 1(a) of the Convention

1. In earlier comments, the Committee referred to Act No. 7210 of 11 July 1984 (Act respecting the serving of sentences), section 200 of which expressly provides that persons sentenced for political offences shall not be subjected to the obligation to work. The Committee again requests the Government to provide information on the way in which the competent authorities define the notion of political offence contained in this provision and also on its application in practice, and to provide texts of implementing regulations, directives or circulars issued in this connection.

2. In the report supplied in 1984, the Government referred to the possibility that a person sentenced under the Press Act might benefit from the exemption from prison labour accorded to persons sentenced for political crimes, in view of the similarity between infringements of this Act and political offences.

The Committee notes Ministerial Ordinance (Portaria) No. 50 of 31 March 1986 regarding the regulation of the freedom of the press, published in the Official Gazette of 2 April 1986, which contains proposals open to suggestions or observations with a view to amending the present Press Act.

The Committee observes the proposal to amend section 1 of the said Act in the following way: "Propaganda in favour of

war, the subversion of the political and social order by violent means or prejudices based on race or class shall not be tolerated".

The present wording of section 1 refers to the use of methods of subversion without specifying the use of violence.

The Committee requests the Government to supply information on the progress of the measures taken to amend the Press Act.

3. In earlier comments, the Committee referred to sections 324 and 327 of Act No. 4737 (Electoral Code) which establishes penalties of imprisonment for reasons that include slandering the President of the Republic in electoral propaganda or for the purposes of propaganda, falsely imputing to him acts defined as crimes, without the proof that the alleged acts have been committed.

The Committee asks the Government to state whether these provisions are still in force and, if so, to inform it of the measures taken or contemplated to ensure the observance of the Convention on this point, including possibly the exemption from prison labour of persons sentenced for offences defined as political.

4. The Committee noted that, by virtue of sections 23 and 25 of Act No. 7170 of 14 December 1983, which defines crimes against national security and the political and social order, incitement to overthrow the political and social order and the open or covert running of political parties or associations prohibited under legal provisions or court rulings are punished by sentences of penal servitude. The sentence of penal servitude involves the obligation to perform labour by virtue of sections 31 and following of the Act respecting the serving of sentences (Act No. 7210 of 11 July 1984) and section 33 of the Penal Code as amended by Act No. 7209 of 11 July 1984. The Committee requests the Government to supply information on any measures that have been taken or are under consideration to extend to persons sentenced under sections 23 and 25 of Act No. 7170 of 1983 the exemption from compulsory prison labour established by section 200 of the Act respecting the serving of sentences.

The Committee noted the Bill respecting the defense of the democratic State published in the Official Gazette of 29 January 1986, which provides for the repeal of Act No. 7710 of 14 January 1983. The Committee requests the Government to supply information on the stage reached by this Bill and to send a copy of the Act once it is adopted.

Article 1(c)

5. In earlier comments, the Committee has referred to section 323 of the Penal Code, under which sentences of imprisonment can be inflicted on a public servant for abandoning his duties, even if this is not prejudicial to the public, and section 327 which provides that for penal purposes a person who, even temporarily or without pay, performs a duty, employment or function in a State body shall be treated as a public servant.

The Committee noted a preliminary draft Penal Code (special part), published in the Official Gazette of 19 July 1984. The Committee noted that a subsequent preliminary draft was published

in the Official Gazette of 28 August 1987, section 330 of which again provides that a public servant who abandons his duty, except in the cases permitted by law, with prejudice to the administration shall be punished with imprisonment of from three months to one year, involving the obligation to work. Section 335 of the same draft specifies that for penal purposes a person who, even temporarily or without pay, performs a public duty shall be treated as a public servant, and subsection 1 of the above section provides that, by analogy, persons performing functions in autonomous undertakings, mixed economy undertakings, public undertakings or foundations established by the public authorities shall be treated as public servants.

The Committee refers again to paragraphs 110 to 116 of its 1979 General Survey on the Abolition of Forced Labour, in which it states that penalties involving compulsory labour inflicted to preserve the life, personal safety or health of the whole or part of the population are in conformity with the Convention. However, section 323 of the Penal Code currently in force and section 333 of the preliminary draft, of which the first prescribes a sentence of imprisonment for the abandonment of public duties, even where this is not prejudicial to the public, and the second prescribes a sentence of imprisonment for such abandonment when it causes prejudice to the administration, do not meet this criterion, and the imposition of penalties involving compulsory labour in these cases is not compatible with the Convention. The Committee hopes that on the adoption of the new Penal Code the necessary measures will be taken to bring the legislation into conformity with the Convention on this point.

6. The Committee also requests the Government to indicate the measures taken or under consideration to give statutory effect to the practice previously reported by the Government of not punishing seafarers under section 1 of Legislative Decree No. 4124 of 24 February 1942 for irregular absence from the vessel or abandonment of duty, except where these offences endanger the safety of the vessel or the life or safety of persons.

7. The Committee noted section 725 of the Consolidation of Labour Laws, which provides that a worker or any person unconnected with the groups in dispute, who foments a strike or directs a combination of workers for the purpose, is liable to the penalty of imprisonment provided for in the penal legislation without prejudice to other punishments applicable, and that where public services are concerned, the penalty laid down in this section shall be doubled.

The Committee requests the Government, in view of the adoption of Act No. 7783 of 28 June 1989, respecting the exercise of the right to strike, to take the necessary measures to explicitly repeal section 725 of the Consolidation of Labour Laws, thereby harmonising the national legislation respecting the right to strike and ensuring its conformity with the Convention.

Cuba (ratification: 1958)

The Committee notes the comments submitted in January 1991 by the International Confederation of Free Trade Unions (ICFTU), concerning the application of Convention No. 105. A copy of these comments was transmitted to the Government so that it can make the observations that it considers appropriate.

In its allegations, the ICFTU states that many young persons are compelled to work on a massive and regular basis for the purposes of economic development. It refers to the compulsory labour exacted from many young persons aged between 15 and 18 years within the framework of rural high schools and, by way of illustration, refers to a study programme established in 1989 to provide a workforce for the programme to expand fruit production for export, under which 20,000 students under the age of majority were mobilised. It also alleges that members of the Youth Labour Army are employed on economic development activities and that political prisoners are compelled to work despite the fact that under the legislation work for political prisoners is voluntary.

The Committee requests the Government to make its observations on the allegations submitted by the ICFTU.

Dominican Republic (ratification: 1958)

The Committee notes the discussion in the Conference Committee in 1990 on the application of Conventions Nos. 95 and 105 by the Dominican Republic, as well as the report of the direct contacts mission which, at the request of the Government of the Dominican Republic, visited the country from 3 to 21 January 1991. The Committee also notes the Government's report.

The Committee notes with interest the adoption of Decree No. 417/90, of 15 October 1990, respecting the regularisation of the situation of Haitian citizens in the country, the installation of special labour inspection delegations in sugar-cane plantations in order to enforce the terms of employment contracts and ensure that they are strictly observed, and to monitor that the human rights of Haitians workers are respected. Furthermore, the above Decree establishes an obligation on the part of the State Secretariat for Labour to regularly report to the ILO on the observance of the provisions contained in the Decree and on any matter relating to the protection due to these workers.

I. Employment in sugar-cane plantations

In comments that it has been making since 1984, the Committee has drawn attention to the urgent 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 its previous observation, the Committee referred to three groups of measures 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). In paragraph 527 of its report, which was published in 1983, the ILO Commission of Inquiry indicated that it is not legitimate for a State to leave in a status of illegality workers whose employment it accepts as necessary to the functioning of the economy, all the more so when they are employed in undertakings belonging to the State. The Commission of Inquiry made recommendations to resolve the situation in view of the fact of many of the violations of international Conventions in question are due to the fact that most of the Haitian workers in the Dominican Republic have no legal residence status.

The Committee notes section 1 of Decree No. 417/90, by virtue of which:

"The General Directorate of Migration is instructed to continue, with the greatest speed, the work of regularising the presence on our territory of all Haitian nationals and to determine their status as immigrants with temporary residence permits or daily-workers for a fixed period, especially as regards those who work as labourers in the sowing, cultivation, cutting and transport of sugar-cane, and in the bateyes, factories and offices of sugar-cane plantations.

Paragraph.- Persons and other legal entities which use these Haitian citizens as workers, irrespective of the type of work they perform, shall be obliged to register them with the authorities in order to comply with the provisions of the above section. Non-compliance with this obligation shall be punishable with the penalties set out in section 14(b) and (c) of Act No. 95 of 14 April 1939."

The Committee notes that the National Directorate of Migration has taken measures to apply the above Decree, including in particular the organisation of a census of Haitian workers and their families and the preparation of temporary residence permits.

The Committee notes that at the present time it is estimated that some 50,000 thousand Haitians have been registered by the census; this figure is well below the approximate number of Haitians in the Dominican Republic, which is estimated to be more than one million.

The Committee notes that in January work began on the preparation of permits that are to be issued to Haitian citizens who have been registered at the Migration Office on form MH-1 (Haitian Migration), established for this purpose and that the direct contacts mission was able to examine some of these permits, without, at that time, being able to estimate the number of persons who had received such permits. The Committee notes that the permits which have been prepared do not distinguish between temporary and definitive residence.

The Committee notes that Decree No. 417/90 does not refer to the regularisation of the descendants of Haitian citizens who were born in the Dominican Republic.

The Committee has referred in previous comments to the situation of these persons who, by virtue of the law of the Dominican Republic, are Dominican nationals, and to the difficulties encountered by

parents of Haitian nationality to register their children born in the Dominican Republic on the Civil Register.

The Committee notes that form MH-1 contains data on the place of birth of the children of registered workers.

The Committee notes the announced intention of the authorities to carry out the census and issue the present permits as a first step which will then make it possible to establish the type of permit that will be issued to persons who have been permanently resident in the country for a long time or who come to work in the sugar-cane harvest, and which will also make it possible to issue documents to persons who were born on the territory of the Dominican Republic.

The Committee requests the Government to state whether subsequent texts have been issued to clarify the terms of Decree No. 417/90 respecting the process of regularising the status of the Haitian population resident in the country, especially with regard to the criteria used to regularise their status and the various types of permits issued.

The Committee requests the Government to supply information on the process of regularisation that has been launched, and particularly on the results of the census of Haitian population residing in the country and the number of workers who were engaged for the 1990-91 sugar-cane harvest. The Committee also requests the Government to supply information on the number of permits that have been issued, indicating the sector of activity in which those who have obtained permits work.

The Committee requests the Government to supply information on the measures that have been taken to issue documents to regularise the situation of the descendants of Haitians, who are generally known as "Dominican-Haitians", who were born in the Dominican Republic.

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). The Committee noted that in so far as the entry of new workers into the country is recognised as being necessary to the operation of the national 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, without the intervention of the armed forces. 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 to their places of employment.

With reference to the determination of the number of workers whose employment will be authorised and the establishment of placement offices (points (a) and (b)), the Dominican authorities state that there has been an increase in Haitian migration and note the negative impact of this migration, although new workers are required each year to work on the sugar-cane harvest since many of those who arrived in previous years proceed to other sectors of activity which offer better terms and conditions of employment.

The Committee notes that in recent years attempts to conclude an inter-governmental agreement between the Dominican Republic and Haiti on the engagement of Haitian workers for the sugar-cane harvest have failed and that at the present time these workers are engaged directly.

The process of engaging workers for
the sugar-cane harvest

In its previous comments, the Committee drew attention to the need to establish placement offices at appropriate locations. In this connection, it notes that four frontier posts have been set up for the engagement of Haitian workers, and that these are located in Pedernales, Jimaní, Elías Piña and Dajabón and that officials of the health and migration authorities and of the State Sugar Board (CEA) work together in order to carry out examinations of these workers to detect malaria, to have them fill in the form MH-1 of the General Directorate of Migration, to sign individual employment contracts and to organise their transport to the plantations.

The Committee notes that the use of buses has made it possible to improve the conditions in which the workers are transported to the sugar-cane plantations.

The Committee notes from the report of the direct contacts mission that, through its direct interviews with workers being engaged at the frontier for the sugar-cane harvest, the mission observed that the immense majority of such workers are illegal immigrants who have arrived in the Dominican Republic without identity documents, visas or work permits. Paradoxically, this illegal immigration is carried out in this case with the consent of Dominican authorities and the State Sugar Board.

A. Recruitment in Haiti

The Committee notes the persistence the traditional form of recruitment in Haiti, which is carried out through the intermediary of the so-called "buscones" in return for the payment of a sum of money for each worker recruited.

The Committee notes that although there has been a certain reduction in military involvement in recruitment, the system of seeking workers in Haiti through the so-called "buscones" persists and that it is currently the most important element in the provision of labour to sugar-cane plantations.

The Committee notes the numerous witnesses heard by the direct contacts mission who referred to the deceitful manner (false promises and information as regards wages and other living and working

conditions) under which they were recruited in Haiti by so-called "buscones", who in most cases were of Haitian nationality.

The evidence that was gathered all points to the conclusion that the Haitian "buscón" receives a sum of money for each Haitian who is delivered to the CEA's "buscón" at the frontier.

In the military fortress at Jimani, located a couple of kilometers from the frontier post of Malpaso, the direct contacts mission was able to observe that a bus loaded with Haitian workers was being organised by persons dressed as civilians, but who were armed, and who had been responsible for recruitment in Haiti, in some cases 50 kilometers from the frontier, according to the driver. The various types of recruiters, the so-called "buscones", have the power and resources to seek workers in Haiti, where they seem to be able to move freely, which would not appear to be possible without the co-operation of the military authorities in that country, at least those located close to the frontier.

The generalised nature of this system of recruiting workers was confirmed by the testimony of Haitian workers, who were fraudulently persuaded to cross the frontier at Alias Peña, where they waited for one month before being delivered to the CEA's "buscon". Other workers referred to similar cases in Pedernales.

The Committee notes that the activity of the "buscón" is authorised and is currently essential for the engagement of workers and that the "buscones" are given a great deal of independence in the way in which they recruit workers, which leaves room for abuses.

B. Recruitment in the Dominican Republic

"Buscones" are also active in the territory of the Dominican Republic, in various manners. Certain of these persons seek cane-cutters for a sugar-cane plantation, and find them in population centres or in the "bateyes" (living areas) of other plantations, so that workers brought by the CEA have become the objects of trafficking and are displaced towards private plantations or farms. Thus, private employers profit from CEA recruitment without any great cost to themselves and without taking their responsibilities. The same trafficking occurs between different plantations of the State Sugar Board. In order to prevent an exodus of workers to other plantations rural guards have used coercive methods, such as keeping the belongings of the workers (in most cases their clothes) or locking them in when they sleep.

The Committee notes Resolution No. 23/90, of 30 October 1990, of the Secretariat of State for Labour respecting intermediaries in the recruitment of workers, by virtue of which "it is recommended that employers, and in particular employers on sugar-cane plantations, refrain from using intermediaries or from engaging Haitian workers through intermediaries, particularly for temporary work in the national sugar-cane industry; they are urged to engage such workers directly, through public offers of employment brought to the knowledge of those concerned by the press or other means, thus ascertaining the freedom of the worker to accept the employment offered and to sign a written contract setting out his rights and obligations and his ability to return to his country of origin".

The Committee also notes the open attitude shown by the CEA authorities, according to the report of the direct contacts mission, concerning the problems that were raised with regard with the current methods of engaging workers.

The Committee notes, nevertheless, that in most cases workers continue to be engaged by the fraudulent means used by intermediaries known as "buscones" to induce Haitians to work on the sugar-cane harvest. It also notes that the CEA continues to pay intermediaries and observes that these recruitment practices have implications and repercussions that cannot be considered part of a free employment relationship.

The Committee requests the Government to supply information on the measures that have been taken to put an end to the illegal practices which still persist in the engagement of workers for the sugar-cane harvest, and on the results obtained regarding the application of the recommendations set out in Resolution No.23/90 of the Secretariat of State for Labour on the use of intermediaries in the engagement of workers. The Committee also requests the Government to supply information on developments in the situation as regards the conclusion of an inter-governmental agreement with the Republic of Haiti on the engagement of Haitian workers for the sugar-cane harvest.

With regard to contracts of employment (point (c)), the Committee notes section 2 of Decree No. 417/90, under the terms of which:

"The Secretariat of State for Labour shall establish special labour inspection delegations in all sugar-cane plantations with the objective, inter alia, of enforcing an employment contract, drawn up in Spanish and the language of the worker, in which shall be set out the amount and system of payment of the wages, the hours of work, the rest days, social security, the maximum work-week, the regulations governing the work that may be performed by children over 14 years of age, bonuses and other incentives, and all relevant rights accorded by national law and by the international Conventions and resolutions to which the Republic has subscribed, as well as the conditions in which the work is to be performed.

Paragraph 1. The above contract shall explicitly set out the right of the workers to resign, and thereby to rescind the contract that has been signed, and to move to another workplace or to their country of origin."

The Committee notes the model employment contracts drawn up by the CEA and the Central Romana Corporation Limited, both of which are written in Spanish and Creole. It also notes from the report of the direct contacts mission, that the process of issuing contracts is being carried gradually, that not all the workers interviewed had signed contracts, and that some of those who had believed that these were residence permits.

The Committee also notes that, by virtue of Decree No. 417/90, the State Secretariat for Labour reported that 18 inspectors had been appointed to the labour inspection delegations provided for in the Decree, and that guidelines were issued on 31 December 1990 for their activities.

The Committee notes the information contained in the report of the direct contacts mission concerning the effect that is given in

practice to the provisions concerning wages, hours of work, and other conditions of employment of workers employed on sugar-cane plantations. With regard to wages, the Committee refers to its comments in relation to the application of the Protection of Wages Convention, 1949 (No. 95). The Committee notes that hours of work continue to be excessive and that social security is almost non-existent. Despite the fact that contributions are deducted from wages, most workers receive no pension in their old age or, if they do receive a pension, its level does not enable them to subsist. In the event of sickness, the workers receive no medical care or medicaments.

The Committee requests the Government to supply information on the application of section 2 of Decree No. 417/90 as regards employment contracts and the supervision carried out by the special labour inspection delegations. The Committee requests the Government to supply a copy of the inspection reports made during the 1990-91 sugar-cane harvest, including data on the number of contracts that were concluded for the 1990-91 harvest and the effect given in practice to the terms of the contracts, the number and nature of the violations that have been reported and the penalties imposed.

3. Protection by the competent authorities of the rights and freedoms of workers. The Committee had requested the Government to 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.

In its previous comments, the Committee referred to coercive methods of recruitment used through round-ups during the course of the sugar-cane harvest in order to compensate for the lack of workers for the harvest.

The Committee notes that round-ups are no longer used systematically and generally, and that the cases that were reported in the 1989-90 and 1990-91 harvests were isolated ones.

The Committee notes, with reference to the freedom to resign set out explicitly in section 2(1) of Decree No. 417/90, that many of the workers interviewed stated that in order to prevent workers transferring to other "bateyes", the rural guards kept their belongings (generally their clothing) thereby obliging the workers to remain in the plantation or lose their belongings if they decided to leave. They also stated that, on occasion, if it is suspected that a worker wishes to leave, he is locked in while sleeping. The Committee also notes that during the harvest, military check-points on roads check the occupants of buses in order to find Haitian citizens, who are made to pay in order to be able to continue their journey, irrespective of whether they are returning to Haiti or travelling in the Dominican Republic. This practice forms part of the system of extortion known as "macuteo" through which workers are stripped of the cash and goods that they carry with them.

- (b) The Committee also requested the Government to take measures to 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 applied to citizens of the Dominican Republic and aliens without distinction.

The Committee notes the clear intention shown by the authorities to recognise the application of labour legislation without distinction on grounds of nationality. Nevertheless, various trade union organisations informed the direct contacts mission that foreign nationality had been used to deny the registration of a number of agricultural trade union organisations.

(c) The measures that were requested also included the setting up, in addition, in "bateyes" of the CEA and in private plantations, of civil administration structures such as exist in other population centres.

The Committee notes that the Consuelo Plantation has been declared to be a municipal district, which has made it possible to establish a court to examine cases of violation of penal legislation. The Committee hopes that the Government will take measures towards the recognition of "bateyes" (living areas of plantations) as territorial divisions so that public authorities protect the rights of workers and their families in plantations.

Living conditions in "bateyes"

In paragraph 512 of its report, the Commission of Inquiry referred to the need for the Dominican sugar industry to recruit large numbers of Haitian workers, notwithstanding high unemployment among the country's own rural population, and indicated that this was due in large measure to the low remuneration and poor conditions of work and life on many of the plantations concerned. The Commission added that it is against this background that various measures contrary to the Conventions on forced labour have been taken, both to retain workers on the plantations for the duration of the harvest and, at times of labour shortage, to take workers there against their will.

The Commission stressed the need to pursue a policy aimed at the humanisation of conditions on the plantations, which finds expression, *inter alia*, in material improvements.

The Committee notes that section 5 of Decree No. 417/90 provides that:

"The national Government, and in particular the State Sugar Board and private enterprises in the sugar industry, in so far as permitted by the available resources, shall continue to carry out, on an increasingly broad scale, programmes in the fields of health, education, food, social security, electrical energy, drinking water and housing for all the workers in the country and particularly for those who work in the cane-fields, "bateyes" and factories of plantations."

The Committee notes that the CEA has initiated some programmes to improve a number of the problems referred to above. It notes, however, that in general the living, health and safety conditions continue to be very bad in the "bateyes".

The Committee requests the Government to report any measure that is taken to improve the living conditions in sugar-cane plantations.

Period between harvests

In paragraph 516 of its report, the Commission of Inquiry recommended that land be set aside on state plantations for cultivation by workers, thus enabling them to supplement their earnings and to meet subsistence needs outside the harvesting period.

The Committee notes that during the low period between harvests, the situation of workers residing on plantations worsens considerably due to lack of earnings. Various workers who were heard by the direct contacts mission referred to the hunger suffered by workers and their families during the months of the low period between harvests. The Committee notes that the Government has not followed up the recommendation to place at the workers' disposal small parcels of land for subsistence crops. The Committee notes that, according to the testimony heard by the direct contacts mission, workers who in their need grow small crops on the lands of the plantations have their produce taken from them by the plantation authorities and, in some cases, the crops are destroyed.

The Committee requests the Government to take the necessary measures to give effect to the recommendation that land for cultivation be placed at the disposal of workers who remain on plantations during the periods between the harvests.

* * *

The Committee notes with interest the legal and administrative measures that have been taken pursuant to the various recommendations made by the Commission of Inquiry and the comments of the Committee of Experts and which may lead in practice to substantial progress in improving the situation of Haitian workers. The Committee also notes the improvements that have resulted from the demilitarisation of "bateyes", the reduction in the number of round-ups and the use of better means of transport.

The Committee notes nevertheless that there remain problems that merit energetic and sustained action by the authorities. The Committee requests the Government to supply information on the measures that are taken to supplement and make more effective current activities in relation to the regularisation of the situation of Haitian workers who come to the country to work on the sugar-cane harvest, of those who are permanently resident in the country and of the descendants of Haitian citizens who were born in the Dominican Republic, and also to regularise the procedures for the engagement of workers. The Committee also requests the Government to provide information on any measure that has been taken to enforce the terms of employment contracts and the rights and freedoms of workers, particularly as regards their freedom of movement, respect for their physical and moral integrity, and their freedom to terminate the employment relationship, as well as the application of the labour legislation under conditions of equality.

II. Other matters

Article 1(c) of the Convention. The Committee referred in 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 in the established time-limits, when they have been paid in advance for such work, are punishable by prison sentences involving compulsory labour.

In its report the Government states that "the national authorities have examined measures to resolve labour disputes occurring in relation to the above Act by administrative or judicial means".

The Committee requests the Government, in order to avoid any ambiguity as regards the application of Act No. 3143, to take the necessary measures to repeal or amend the Act and to report on the progress achieved to this effect.

Article 1(d). In its previous comments the Committee referred 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. The Government stated in one of its previous reports that the necessary measures had been taken to amend or repeal these sections. The Committee hopes that the above provisions will be amended or repealed as soon as possible so as to ensure that full effect is given to the Convention in this respect.

Gabon (ratification: 1961)

Article 1(c) and (d) of the Convention. In the comments that it has been making for many years, the Committee noted that under section 153, subsections 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.

Germany (ratification: 1959)

The Committee takes note of the observations made by the German Confederation of Trade Unions (DGB). In this connection, the Committee refers to its comments under Convention No. 29.

Ghana (ratification: 1958)

The Committee notes the Government's report.

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. In a report received in November 1988 the Government indicated that the same body was still being reconstituted and comments would be promptly dealt with as soon as it resumed sitting and in a report received in June 1988, the Government also indicated that information had been requested from various public authorities. In its latest reports received in June 1990 and February 1991, the Government states that the Committee's comments are being discussed by the aforementioned National Advisory Committee on Labour.

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.

Greece (ratification: 1962)

The Committee takes note of the observations by the Greek General Confederation of Labour (CGT) of 30 November 1990. The Committee refers in this connection to its comments under Convention No. 87.

Furthermore, the Committee recalls the comments it made in 1990 concerning the provisions of the Code of Public Maritime Law which allows penalties of imprisonment to be imposed on seafarers for breaches of labour discipline, the provisions of Act No. 3276 of 1944 respecting collective agreements, and Act No. 299 of 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, the

restrictions imposed by Legislative Decree No. 794 of 1970 on freedom of assembly and expression and the imprisonment of pilots and flight engineers following a notice of strike action. The Committee hopes that the Government will provide the information requested.

Iraq (ratification: 1959)

The Committee has noted the discussion on this case which took place in the Conference Committee in 1989. It notes that a Government representative assured the Committee that the Government endeavoured to give every guarantee to workers in every sector in the spirit of securing social security and well-being for everyone. However, a number of temporary and exceptional provisions had been implemented, in the light of the very specific situation brought about by the war in order to secure the pursuance of work on certain projects, without which there would have been a health risk to the population. The situation now having evolved, the Government was reconsidering some of these provisions in the light of the economic and social development of the country.

The Committee notes that in its report received on 14 September 1990, the Government indicates that there has been no change concerning the application of the Convention. In these circumstances, the Committee is bound to raise again the following points.

Article 1(c) and (d) of the Convention. 1. The Committee, in earlier comments, referred to section 364 of the Penal Code, under which a penalty of imprisonment (involving an obligation to work) may be imposed on any official and any person in charge of a public service who leaves his work, even after having resigned, or who abstains from performing his duty or work if he thereby might endanger the life, health or personal safety of the population, cause riots or unrest among the population or paralyse a public service. The Committee noted from the Government's report dated 30 December 1986 that the same persons are to be punished with heavier prison terms under section 241 of the draft new Penal Code.

The Committee also noted the Government's reference, in its report dated 15 October 1987, to section 36, paragraph III of the Labour Code (Law No. 71 of 1987), under which workers may terminate their labour contract by giving notice. The Committee further noted that under Decision No. 150 of 1987 of the Revolutionary Command Council, referred to in the new Labour Code, all workers of state services and the socialist sector are to be public officials and thus excluded from the scope of the new Labour Code, whose application is thus limited to the private, co-operative and mixed sectors. Moreover, section 364 of the Penal Code and section 241 of the draft new Penal Code apply even to persons having formally resigned.

The Committee referred the Government to paragraphs 110 and 114 to 116 of the 1979 General Survey on the Abolition of Forced Labour and indicated that the Convention does not protect persons responsible for breaches of labour discipline which are committed either in the exercise of functions that are essential to safety or in circumstances where life and health are in danger. Since the scope of the national provisions is not limited to such circumstances, but includes, inter

alia, cases falling within Article 1(c), the Committee requested the Government to re-examine the provisions in the light of the Convention. Referring also to Convention No. 29, under which workers must remain free to terminate their employment by reasonable notice, the Committee asked the Government to supply information on any amendment made or contemplated in section 241 of the draft Penal Code, as well as on application in practice of section 364 of the Penal Code.

In the absence of an indication that these provisions have undergone revision, the Committee again requests the Government to re-examine these provisions in the light of Conventions Nos. 29 and 105 and to supply information on any amendment made or contemplated, as well as on their application in practice, including in particular, copies of any court decisions defining or illustrating their scope.

Article 1(d). 2. In its earlier comments, the Committee pointed out that under section 132 of the Labour Code all labour disputes that are not settled by mutual agreement must be submitted to the Supreme Labour Court, whose judgement was final, without appeal and binding on the parties. The Committee noted that under section 132 of the new Labour Code (Law No. 71 of 1987) unresolved trade disputes are referred to the Labour Dispute Chamber of the Court of Cassation, whose judgement is final according to section 133. Section 136(I) of the new Code provides (as did section 134 of the former Code) that if an employer does not give effect to the decision of the Chamber, the workers have the right to strike and sanctions may be imposed against the employer.

The Committee noted that except for the strike action allowed under section 136, the right to strike does not appear to be recognised. The Committee asks the Government to indicate the penalties applicable to workers who go on strike in disregard of a final judgement under section 133 of the Labour Code, that is, otherwise than in the case envisaged in section 136.

3. In its earlier comments, the Committee pointed out that section 197, subsection 4, read together with section 216 of the Penal Code provides for imprisonment (involving the obligation to work) for a fixed period or for life as a punishment for stopping activities of public services or bodies, public utility associations, state industrial installations or public establishments of importance to the national economy. The Government had stated in earlier reports that officials of the State and of government establishments have no right to strike, that section 197, subsection 4, is applied without qualification and makes no distinction between the essential and the non-essential services provided by the undertakings, and that the penalty of imprisonment for disrupting work is a threat intended to induce persons to remain at work who would otherwise leave it, thereby causing a disruption in the activities of the services in question.

The Committee had pointed out that under the above-mentioned provisions of the Penal Code, penalties involving the imposition of compulsory prison work can be inflicted for stoppages of work in a wide range of activities and industrial installations. The Committee had asked the Government to indicate the measures taken or under consideration to ensure the observance of the Convention in this regard, for example by restricting the application of these provisions to officials whose functions include the exercise of public authority

and to employees of essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee noted the Government's statement in its report dated 15 October 1987 that section 19 of Law No. 104 of 1981 regarding the State Organisation for Social Reform provides that work is a part of the implementation of the punishment and not a punishment in itself. Further, the Government indicated that sections 87, 88 and 89 of the Penal Code provide for imprisonment, but do not contemplate the imposition of forced labour within the penal establishment. The Committee observed that under sections 87 and 88 of the Penal Code, concerning imprisonment and penal servitude, persons sentenced are to be assigned to specified work. Referring to the explanations provided in paragraphs 102 to 109 of its 1979 General Survey on the Abolition of Forced Labour, the Committee recalled that the Convention prohibits the use of "any form" of compulsory labour, including compulsory prison labour, in the five cases specified in the Convention. Thus, the imposition of sanctions involving compulsory prison labour of any kind on persons sentenced for breaches of labour discipline, or for participation in a strike, is covered by Article 1(c) and (d) of the Convention.

The Committee again requests the Government to re-examine section 197, subsection 4, and section 216, read together with section 87, of the Penal Code and to indicate the measures taken or contemplated to ensure the observance of the Convention.

4. In the same connection the Committee previously noted that section 152 of the draft new Penal Code corresponds to section 197, paragraph 4 of the Penal Code; the Government stated that section 152 of the draft new Penal Code provides for a penalty of imprisonment for life to be imposed on anybody who voluntarily destroys, deteriorates or damages public property or a socialist sector enterprise, with the aim of overthrowing the socialist republic system and that this provision applies not only to officials or persons in charge of a public service but likewise to any person who commits one of those acts. The Committee requests again that the Government supply a copy of the precise wording of the provision referred to as well as any indications enabling it to ascertain whether the scope of the draft provision shall be limited to damages caused by violence or misappropriation of public funds, or whether this provision could also apply to a strike; in the latter case the Committee request the Government to indicate any measure taken or contemplated to ensure the observance of the Convention.

Ireland (ratification: 1958)

The Committee notes the Government's report.

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 seaman 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 these provisions 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 note of these indications. It also 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.

The Committee has also examined the copies of standard forms of crew agreements communicated by the Government. The Committee notes that these contain model Regulations for Maintaining Discipline, which are distinct from and in addition to those contained in the Merchant Shipping Act, 1894, but are also sanctioned by section 114(2) of the Act. All or any of them may be adopted by agreement between the Master and his crew. The Committee notes that the list of offences enumerated under these regulations, punishable by fines, includes "disobedience of any lawful command, if not otherwise dealt with according to law" (No. 5), and "absence without leave (if not otherwise dealt with according to law) for each day on which such absence occurs" (No. 6). The Committee observes that these regulations address some offences also covered by sections 221 and 225(1)(b) and (c), 222, 224 and 238 of the 1894 Merchant Shipping Act and might thus facilitate the repeal of the latter.

The Committee however notes with concern the Government's indication in its report received on 12 February 1991, that at present a Merchant Shipping Bill is being drafted, but that there are no plans to repeal either the Merchant Shipping Act, 1894, or to amend the provisions relating to forced labour and that the Government's position remains the same as outlined in its report for the period 1984-85.

The Committee trusts that the Government will revise its position in the light of the explanations given by the Committee and that it will report on the necessary action to bring legislation into conformity with the Convention.

Italy (ratification: 1958)

Article 1(a) of the Convention. The Committee notes with satisfaction that, by virtue of Decision No. 193 of 28 June 1985 of the Constitutional Court, section 273 of the Penal Code, according to which "any person who, without the authorisation of the Government, founds, establishes, organises or manages, on the territory of the State, associations, organisations or institutions of an international character, or divisions of these associations, shall be liable to imprisonment for up to six months" was invalidated. (Sentences of imprisonment, under sections 23(1) and 25(1) of the Penal Code, involve compulsory labour.)

Liberia (ratification: 1962)

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

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

Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. The Committee has, however, taken note of the discussion which took place in the Conference Committee in 1990. The Committee notes that in its statement to the Conference Committee a Government representative indicated that a "green paper" on human rights covering all human rights Conventions had been communicated to the General Peoples' Congress and would be submitted to the Office, as well as all texts which were to be amended in the future.

The Committee expresses the hope that the Government will communicate the afore-mentioned documents and provide full information on the following matters raised in its previous observation:

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 had recognised obligations under the Convention and had 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 hopes that the Government will provide information on any legislative amendments adopted 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.

Mauritius (ratification: 1969)

1. Article 1(c) and (d) of the Convention. In earlier comments, the Committee 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 had noted the Government's indication that the Merchant Shipping Act, 1986, had been enacted but had not yet been proclaimed and that provision was made in the new Act to comply with the Convention and to repeal the Merchant Shipping Act, 1894. The Committee notes the Government's information in its latest report that the mechanism for the implementation of the 1986 Merchant Shipping Act was being put into place and that the Act was eventually to be promulgated in December 1990. 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.

The Committee notes the Government's information in its report that a special law review committee was set up to review the aforementioned Act.

Referring also to previously reported steps taken to bring the industrial relations legislation into conformity with the Convention, the Committee expresses once more the hope 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.

New Zealand (ratification: 1968)

In its previous comments the Committee 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) (sections 164 and 476) and seamen absent without leave may be forcibly returned on board ship (sections 157 to 161, 174, 175, and 472 to 475).

The Committee had noted that the Shipping and Seamen Amendment Act which entered into force in August 1987 did not amend the provisions in question; the Government indicated that amendments addressing the issues of concern were intended to be included in the next major amendment of the Act, that employer and union organisations were being consulted, but that these amendments did not have a high priority in the Government's legislative programme.

The Committee notes with interest the information provided by the Government in its latest report that section 160 of the Shipping and Seamen Act (which provided for the forcible return on board ship of a seaman, engaged elsewhere than in New Zealand, who committed the offence of desertion or absence without leave) was repealed by the 1987 Immigration Act (Act No. 74 of 21 April 1987, section 151(1), 4th Schedule). The Committee notes that sections 158 and 158A were also repealed by the same Act.

The Committee further notes the Government's indication that in practice the provisions under which disciplinary offences may be punished by imprisonment (involving an obligation to perform labour) are not applied.

The Committee expresses the hope that these provisions as well as the remaining provisions relating to the forcible return on board ship on which it has been commenting for numerous years will be modified or repealed and that the Government will soon be able to report on the adoption of the necessary amendments to bring the provisions of the Shipping and Seamen Act into conformity with the Convention.

Nigeria (ratification: 1960)

The Committee notes the information provided by the Government in its report and the discussion in the Conference Committee in 1990.

Article 1(a) of the Convention. 1. In previous comments the Committee noted that certain provisions of the 1979 Constitution, including provisions on fundamental rights relating to detention, and the right of peaceful assembly and association had been suspended or modified and that under the State Security (Detention of Persons) Decree No. 2 of 1984 persons could be detained for successive periods of three months (respectively six months following the amendment of the Decree), constitutional guaranties in this matter being suspended. The Committee had 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 Decree No. 2 of 1984. The Committee had further noted that a constitutional review committee had been established and a timetable for the political transition adopted.

The Committee notes with interest the adoption in 1989 of a new Constitution which will come into force on 1 October 1992. It also notes that the President may by Order appoint a date earlier than 1 October 1992 for the coming into force of any of the provisions of the Constitution and that the federal military Government may promulgate constitutional and transitional Decrees during the transition period (Constitution of the Federal Republic of Nigeria (Promulgation) Decree 1989, sections 1 to 3).

The Committee notes that the new Constitution provides for the protection of fundamental rights, such as the right to freedom of thought, conscience, to freedom of expression and the press, the right of peaceful assembly and association (articles 32 to 41) and for the state social order to be founded on ideals of freedom, equality and justice.

The Committee notes the Government's indication in its report that the ban on freedom of association and assembly has been lifted as well as the ban on political activities and that two political parties emerged, namely the Social Democratic Party and the National Republican Convention. The Committee notes, however, that only two political parties can be established under article 220 of the new Constitution and were in fact allowed to compete in the 1990 local elections which were the first political elections since 1983.

The Committee hopes that the Government will provide information on any legislative or statutory provisions adopted under the provisions of the new Constitution when in force, in relation to the expression of views, freedom of association and assembly, and political activities. Referring in this context to the restrictions on the establishment of political parties, the Committee recalls 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 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 which would involve an obligation to work.

The Committee further notes that under the State Security (Detention of Persons) (Amendment) Decree of 25 January 1990 sent by the Government with its report, the successive periods of detention of six months have been substituted by periods of six weeks and a Detention of Persons Review Panel has been established. The Committee hopes again that the Government will provide a copy of any Act or regulation governing the conditions of detention of persons detained under Decree No. 2 of 1984 as amended.

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, but that efforts would, however, 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 notes the Government's statement in its report that the sections in question have been submitted to the National Advisory Council for necessary review and amendments. The Committee hopes that the Government will soon be in a position to report on measures adopted 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.

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 (i.e. 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. Noting the Government's indication in its report that the provisions of section 13(1) and (2) of the Trade Disputes Decree No. 7 of 1976 have been submitted to the National Labour Advisory Council for necessary review and amendment, the Committee expresses the hope that 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.

Pakistan (ratification: 1960)

The Committee has taken note of the discussion that took place in the Conference Committee in 1990. It notes that no report has since been received from the Government.

Compulsory prison labour. In comments made for a great number of years, the Committee has referred to legislation under which penalties involving compulsory labour may be imposed on persons punished for activities falling within the scope of Article 1 of the Convention. The Committee notes the indication by the Government representative to the Conference Committee in 1990 that there was no law in the country forcing any person to work. The provisions of the Security of Pakistan Act and the Political Parties Act did not contemplate any forced labour because punishment under them could only be imposed by the courts after a regular trial.

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 therefore is bound to raise again the following points.

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 noted with interest from the Government's report for the period 1987-89 that the West Pakistan Press and Publications Ordinance, 1963, was being replaced by the Registration of Printing Presses and Publications Ordinance which was before the National Assembly and which would contain no provisions corresponding to sections 23, 24, 27, 28 and 30 of the West Pakistan Press and Publications Ordinance, 1963. The Committee notes that while this was confirmed by the Government representative to the Conference Committee in 1990 no further progress was reported towards the adoption of the new Ordinance, nor with regard to amending the Political Parties Act.

The Committee again expresses the hope that the necessary measures will soon be taken to bring all of the above-mentioned provisions into conformity with the Convention, and that copies of the amending legislation will be provided.

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 once more 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 noted with interest the statement by the Government in its report for 1987-89 that the Government had presented a Bill to the National Assembly to amend the Industrial Relations Ordinance and that it was proposed to remove from the provisions of sections 54 and 55 the element of compulsory labour by replacing imprisonment with "simple imprisonment". This was confirmed by the Government representative to the Conference Committee in 1990, without indicating that any further progress had been made. 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 Government's repeated statements 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. Noting the Government representative's corresponding indications to the Conference Committee in 1990, 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 Prophet Muhammad (peace be upon him) as 'Ahle-bait'; or (d) refers to, or names, or calls his place of worship as 'Masjid' - shall be punished with imprisonment of either description for a term which may extend to three years".

Under section 298B(2), any 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 Committee had 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 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 1990 reiterating that religious discrimination did not exist and was forbidden by the Constitution and national laws; forced labour as a result of religious discrimination did not exist and minorities including Ahmadis/Quadianis enjoyed all constitutionally guaranteed fundamental rights. The Government had not yet received the report of the Special Rapporteur on the application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religious Conviction. The report would be examined and detailed information submitted on this issue.

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

Peru (ratification: 1960)

The Committee notes the information supplied by the Government in its report and the statement made to the Conference Committee in 1990.

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 notes section 20 of the draft Penal Code of September 1989, which replaces the draft of 1986, according to which "any 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 as a result of such understanding, shall be exempt from responsibility for such an act. Where, for these reasons, responsibility is diminished, the penalty shall be reduced even to below the statutory minimum".

The Committee noted that the time-limit for the enactment of the new Penal Code had been extended until April 1990. In June 1990, the Government representative to the Conference Committee stated that the time-limit had been once again been extended until July 1990.

The Committee notes that the new Penal Code has not yet been adopted. It also notes that, in October 1990, a draft text was submitted to make urgent amendments to the penal legislation; the

commenting note on the reasons for the draft amendments referred to the fact that enactment of the projected overall reform of the Code was "not foreseen in the near future". The Committee regrets to note that the draft urgent amendments provide neither provide for the repeal of section 44 of the Code currently in force, which has been the subject of the Committee's comments for many years, nor for the adoption of section 20 of the draft Penal Code.

The Committee hopes that the Government will take the necessary measures without delay to repeal section 44 of the Penal Code.

Sierra Leone (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:

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.

Syrian Arab Republic (ratification: 1958)

The Committee takes note of the Government's report.

Article 1(a), (c) and (d) of the Convention. In its previous comments, the Committee referred to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, under which prison sentences involving compulsory labour can be inflicted for acts covered by Article 1(a), (c) and (d). It noted that a draft Legislative Decree amending various sections of the Penal Code to eliminate all prison work was being examined by the legislative authorities.

The Committee notes that the Government's report contains no new information on the matter. The Committee reiterates the hope that the Government will take the necessary measures to ensure observance of the Convention in the very near future and that it will provide a copy of the provisions adopted.

United Republic of Tanzania (ratification: 1962)

The Committee notes the information provided by the Government in its report and the discussion which took place in the Conference Committee in 1990.

The Committee notes in particular the Government's indications that it considers the observations by the Committee as valid and that legislation is currently under revision. The first part of the revision covers labour laws. The draft texts of the revised laws have already been debated by employers' and workers' organisations and the Labour Advisory Board and will be tabled before the National Assembly as soon as practicable. The second part of the review exercise covers other legislation which requires extensive interministerial consultations: the Ministry of Labour and the Labour Law Review Committee of the Law Reform Commission on which employers' and workers' organisations are represented are working on a final report to be submitted to the government for further action. The Labour Law Review Committee has included among its recommendations the comments and observations of the Committee as issues that need immediate attention.

The Committee hopes that the Government will provide further information on the measures taken to bring national legislation into conformity with the Convention and on the provisions actually adopted on the following matters:

Tanganyika

1. In previous comments, the Committee noted that forced or compulsory labour may be imposed in circumstances falling within Article 1(a), (c) and (d) of the Convention under the following legislative provisions:

Article 1(a) of the Convention. Under section 25 of the Newspaper Act, 1976, the President may, if he considers it necessary in the public interest or in the interest of peace and order, prohibit the further publication of any newspaper. Any person who prints, publishes, sells or distributes in a public place such a newspaper may be punished with imprisonment (involving, by virtue of Part XI of the Prison Act, 1977, an obligation to perform labour).

Article 1(c). Under section 284A of the Penal Code, any employee of a "specified authority" (i.e. the Government, a local authority, a registered trade union, the Tanganyika African National Union or any body affiliated to it, any publicly owned company, etc.) who causes pecuniary loss to his employer or damage to his employer's property, by any wilful act or omission, negligence or misconduct, or failure to take reasonable care or to discharge his duties in a reasonable manner, may be punished with imprisonment for up to two years (involving an obligation to work).

Under section 176(9) of the Penal Code, any person employed under lawful employment of any description who is, without lawful excuse, found engaged in a frolic of his own at a time he is supposed to be engaged in activities connected or relating to the business of his employment may be punished with imprisonment (involving an obligation to work). In addition, under section 26 of the Human Resources Deployment Act, the Minister shall make such arrangements as will provide for a smooth and co-ordinated transfer or any other measure which will provide for the rehabilitation and full deployment of persons chargeable with or previously convicted under section 176 of the Penal Code.

Article 1(c) and (d). Under section 145(1)(b), (c) and (e) and section 147 of the Merchant Shipping Act, 1967, various breaches of discipline by seamen are punishable by imprisonment, involving an obligation to perform labour. Under section 151, any seaman who deserts from a foreign ship may be forcibly conveyed on board ship or delivered to the master, mate or owner of the ship or his agent.

Article 1(d). Sections 4, 8, 11 and 27 of the Permanent Labour Tribunal Act, 1967, which contain general provisions for compulsory arbitration in labour disputes, make it possible in practice to render all strikes illegal and punishable with imprisonment (involving compulsory prison labour).

The Committee has noted the Permanent Labour Tribunal (Amendment) Act of 26 March 1990 under which the words "Permanent Labour Tribunal" are substituted by the words "Industrial Court of Tanzania". The Committee notes that the modifications introduced into the Act have not changed the substance of the provisions on which the Committee has been commenting.

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 envisaged 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.

Zanzibar

2. In its previous observation, the Committee noted the Government's indication that the Afro-Shirazi Party Decree No. 11 of 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 had noted 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.

The Committee notes that under the Constitution of Zanzibar (Consequential, Transitional and Temporary Provisions Decree), 1979 (Revolutionary Council Decree No. 3 of 1980), a copy of which was provided by the Government with its report, the Afro-Shirazi Party Decree was repealed.

The Committee expresses the hope that on an appropriate occasion any other penal provisions punishing membership in political organisations other than the sole political party with penalties involving compulsory labour will be repealed.

3. The Committee refers in a direct request to a number of other statutory provisions having a bearing on Article 1(a), (c) and (d) of the Convention. Referring also to the Government's previous statement that measures are being taken with a view to ensuring that prisoners covered by the Convention be exempted from prison labour, the Committee hopes that action to bring legislation into conformity with the Convention will be taken in the near future.

Tunisia (ratification: 1959)

Article 1(d) of the Convention. The Committee notes the provisions of Act No. 89-63 of 3 July 1989 issuing an amnesty, which

was enclosed with the Government's report and which grants amnesty in particular to persons sentenced or on trial for violation of sections 387, 388 and 390 of the Labour Code, on which the Committee has been commenting for many years.

1. The Committee pointed out previously that under the Labour Code participation in a strike is illegal and can be punished by imprisonment involving, by virtue of section 13 of the Penal Code, compulsory labour in cases where the Government imposes arbitration, considering that a strike might endanger the national interest (sections 384-388 of the Labour Code); similarly, in cases where a strike is called in such circumstances, the workers may be requisitioned under penalty of imprisonment involving compulsory labour (sections 389 and 390 of the same Code). The Government stated that consultations were under way on a Bill to revise the Labour Code and that the proposal to replace the reference to the vital interest of the nation (section 384 of the Code) by the concept of services that are essential for the safety and well-being of the population had met with no objection from the departments concerned or the employers' and workers' central organisations.

The Committee notes that the Government's report contains no information on the progress of this work. It also notes that employees of the Tunisian Airports Office have been made liable for requisition by Decree No. 89-398 of 7 April 1989. The Committee reiterates the hope that recourse to compulsory arbitration and requisitioning, enforced by penalties involving compulsory labour, will be restricted to essential services whose interruption would endanger the life, personal safety and health of the whole or part of the population, and that the Government will be able to report in the near future that the Labour Code has been amended to this effect.

2. In its previous comments, the Committee also noted that by virtue of section 376bis of the Labour Code, inserted by Act No. 76-84 of 11 August 1976, read in conjunction with sections 387 and 388 of the same Code, strikes must be approved by the Central Workers' Organisation and that, in the event of this requirement not being fulfilled, the strike is deemed illegal and any person calling for its continuance or participating in it shall be liable to imprisonment involving, in accordance with section 13 of the Penal Code, compulsory labour. The Committee referred to the explanations in paragraphs 128-132 of its General Survey of 1979 on the Abolition of Forced Labour, in which it observes that certain strict requirements as regards the procedures for declaring or conducting a lawful strike fall within the scope of the Convention when they are enforced by sanctions involving compulsory work, and in which it refers in particular to legislation requiring a vote by a qualified majority vote before a strike is declared or authorising a single trade union to decide on the strike.

The Committee again trusts that the provisions in question will be re-examined in the light of the Convention and that the revised Labour Code will cease to allow penalties involving compulsory labour to be imposed for participation in a strike merely because it has not been approved by the Central Workers' Organisation.

The Committee hopes that the Government will shortly be able to report that progress has been made in this regard.

The Committee notes the provisions of Act No. 89-23 of 27 February 1989 to abolish the penalty of forced labour, which the Government enclosed with its report.

Zambia (ratification: 1965)

The Committee notes the information provided by the Government in its report and to the Conference Committee in 1990.

1. Referring to its previous comments, the Committee notes with satisfaction that 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, were liable to imprisonment (involving under section 75 of the Prisons Act an obligation to work) was repealed by the Penal Code (Amendment) Act, No. 7 of 20 July 1990.

2. The Committee notes with interest the Government's statement in its report that various other legislative amendments to comply with the Convention will be submitted to Parliament at an early stage.

Recalling also that a direct contacts mission to Zambia 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 Convention, the Committee hopes that the Government will soon be in a position to report on progress made in relation to the following points to which the Committee referred previously.

Article 1(a) of the Convention. 3. 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 of associations 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 noted 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 noted 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 notes the Government's indication that a decision to introduce political pluralism has recently been taken and that restrictions on the establishment of political parties outside the ruling United National Independence Party will be lifted. In this connection, a Bill has been published and will be introduced in Parliament.

Noting also the Government's indication in its report that it has decided to amend section 75 of the Prisons Act and that a Bill to this effect will be presented to Parliament, 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 information on the measures taken.

Article 1(c) and (d). 4. In its previous comments, the Committee referred to sections 221, 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 noted 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. The Committee also noted 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.

Noting the Government's information in its report that an amendment Bill will be presented to Parliament as soon as procedural requirements are satisfied and completed, the Committee hopes that the Government will soon be in a position to report on the legislative changes made to ensure observance of the Convention on this point.

5. 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 SI No. 239 of 1970).

The Committee also 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 had noted from the report on the direct contacts mission that a draft Industrial Relations Bill had been prepared which, while representing an improvement upon the existing legislation, still provided, however, for restrictions on the right to strike, several of which appear incompatible with the Convention when enforceable with penalties involving compulsory labour.

The Committee notes the Government's indication in its report that a new draft Bill to comply with the provisions of the Convention has been agreed upon and will be presented to Parliament.

Recalling also that in the report on the direct contacts mission it is stated 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 essential services and necessary services and 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.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Bahamas, Benin, Fiji, France, Gabon, Ghana, Grenada, Iraq, Italy, Liberia, Nigeria, Pakistan, Peru, Philippines, Seychelles, United Republic of Tanzania, Tunisia, Republic of Yemen.

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Bolivia (ratification: 1973)

The Committee has for several years been making comments on the need to take measures to give full effect to Article 8(3) of the Convention concerning compensatory rest. The Government indicates in its report that these comments are taken into account in the preliminary draft revising the General Labour Law, prepared with the technical assistance of the ILO. The Committee trusts that the new legislation will be adopted as soon as possible, that it will ensure compliance with the Convention, and that the Government will provide full details.

Colombia (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:

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.

Cyprus (ratification: 1966)

With reference to its previous comments, the Committee notes with satisfaction the issuance on 18 May 1990 of the Employecs (Hours of Work) (Amendment) Order of 1990 which expressly provides that in cases where work has to be carried out during the weekly rest day compensatory rest should be granted, in accordance with Article 8, paragraph 3, of the Convention.

Egypt (ratification: 1958)

In observations it has been making since 1975, the Committee has noted that the Labour Code of 1981 does not reflect the requirements of Article 8, paragraph 3, of the Convention in that it makes no general provision for persons working on their weekly rest day to be granted compensatory rest. In particular, the Committee has referred to section 140 of the Code, which seems to envisage workers - at least in some cases - not enjoying a compensatory rest day on some other day in the following week. In its previous observation the Committee noted the amendment drafted to comply with the Convention on this point. The Committee again expresses its hope that the necessary measures will soon be taken.

[The Government is asked to report in detail for the period ending 30 June 1992.]

Saudi Arabia (ratification: 1978)

Article 8, paragraph 3, of the Convention. In earlier comments, the Committee noted that under section 150 of the Labour Code, in certain fixed cases, the employer is not obliged to observe the provisions of section 149, which provides for a weekly rest day on Friday or on a day replacing Friday. In those cases, there is no provision for compensatory rest as required by the Convention. The Committee has noted the statements of the Government to the effect that the Committee's comments were being considered. It hopes the Government will take measures to ensure that, where temporary exemptions from weekly rest day requirements are made, a compensatory day of rest is provided, and that it will provide full information.

Syrian Arab Republic (ratification: 1958)

Article 8, paragraph 3, of the Convention. For many years the Committee has been drawing the Government's attention to the need to adopt measures in order to guarantee compensatory rest to workers who, under exceptions provided for in section 120 of the Labour Code, work on the weekly rest day. The Committee notes that a new draft which would appear to give effect to this requirement of the Convention has been submitted to the Council of Ministers. The Committee must once more express its hope that this difficulty in the application of the Convention will be resolved, and that the Government will supply full information.

[The Government is asked to report in detail for the period ending 30 June 1992.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Brazil, Djibouti, France, Haiti, Indonesia, Iraq, Jordan, Lebanon, Malta, Morocco, Sri Lanka.

Convention No. 107: Indigenous and Tribal Populations, 1957Argentina (ratification: 1960)

1. Further to its previous comments, the Committee notes with satisfaction the adoption of Decree No. 155/89, of February 1989, which establishes the characteristics, functions, objectives and resources of the National Institute of Indigenous Affairs (Instituto Nacional de Asuntos Indigenas) (INAI). The Committee notes that the Institute is not yet functioning, however, and requests the Government to inform it of the measures which have been taken to adopt the draft structure of the Institute and to allow it to begin to function.

2. The Committee notes from section 5(j) of Decree No. 155/89 that the President of INAI is responsible for inviting the provinces

to adhere to Act No. 23,302 of 30 September 1985 on indigenous policy and support to indigenous communities. The Committee understands this to mean that neither the Act nor the Decree is applicable to the provinces unless they so agree and enact legislation which is in conformity with the Act. The Committee notes in this connection that certain provinces (El Chaco, Formosa, Misiones, Rio Grande and Salta) have adopted their own indigenous legislation. The Committee therefore requests the Government to communicate copies of this legislation, and of any subsidiary laws, regulations and other instruments that may have been adopted in this connection. Please also indicate which provinces have indicated their adherence to Act No. 23,302.

3. Finally, the Committee notes that for some time, the Government has communicated almost no information on the practical implementation of the Convention, referring solely to legislative provisions. It is particularly important for the present Convention that information on the practical effect given to each Article, be supplied in governments' reports. The Committee therefore requests the Government to provide information of this kind in reply to each of the questions raised in the request being addressed directly to it.

Bangladesh (ratification: 1972)

1. In its comments in recent years, the Committee has noted the existence of a continuing conflict in the Chittagong Hill Tracts region of the country, where some 600,000 tribal people live. It recalls that there had been an influx of non-tribal people into that region, conflicts had resulted, and a number of tribal refugees had fled the region into India. Representatives of the Director-General visited the country and held extensive discussions with the Government, and Government representatives have discussed the situation with the Conference Committee on several occasions. New legislation was adopted in 1989 to establish "Hill Districts Local Government Councils", handing control over aspects of local affairs to local government councils with a majority of tribal representatives. The Committee raised a certain number of questions in its previous observation as to the working of these councils, and on the present situation more generally.

2. The Committee notes that the Government has replied very succinctly to its detailed questions. Given the concern with which it has viewed the application of this Convention in Bangladesh over the years, and the information it continues to receive that the situation of conflict is not yet resolved, it hopes that the Government will furnish more detailed information in its next report.

3. Legislation in force. The Committee notes with interest that the Chittagong Hill Tracts Regulations (No. 1 of 1900), are still valid as the Hill Districts (Repeal and Enforcement of Law and Special Provision) Act, 1989, has not entered into force. It notes the statement in the report that all the rights and privileges of tribal people provided for under the Regulations therefore continue to prevail. Recalling the concern with which some tribal representatives have viewed the possibility of repeal of the 1900 Regulations, which

they feel would remove the recognition of their special status in the CHT, the Committee would be grateful if the Government would indicate what plans it may have in this regard.

4. Articles 11 to 14 of the Convention: Power of the Local Government Councils to allocate land rights. The Committee noted in its last observation that it had received information from non-governmental organisations that the land 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. If true, this would considerably reduce the power of the councils (which have a majority of tribal members) to control immigration and to allocate lands. The Government has indicated in its report that the entire area of the Chittagong Hill Tracts is under the jurisdiction of the three District Councils. It has also referred, however, to section 64 of each of the three Councils Acts, which provides that the Councils' power of disposition of lands does not extend to:

protected and reserved forests, nationalised industries and mills areas, lands transferred or given in settlement of Government public interest, and lands or forests which may be required by the Government in the public interest.

5. The Committee notes in this connection from a recent publication of the International Work Group for Indigenous Affairs, that forest lands and reserved forests make up some 77 per cent of the land in the Hill Tracts. It notes also the statement in the Government's report that it has undertaken to settle about 24,000 tribal people in phases, allotting to them money and about 4 acres of land per family. The Committee understands that this settlement would take place on Government-controlled lands.

6. It appears, therefore, that the Local Government Councils are able to control land allocation in only a small portion of the Hill Tracts, with the central Government controlling the rest. Please indicate what policy has been adopted by the Government concerning the allocation of land to tribals and non-tribals, and whether allocations of land have been made to non-tribals in these areas. The Committee notes in this connection the statement that no fresh settlement of non-tribal people has taken place in the Hill Tracts since 1984.

7. The Committee notes further in this connection the statement in the report that the cadastral survey of land ownership and rights in the Hill Tracts, which was to have been resumed after the council elections in 1989, has not in fact been resumed. It notes further that the absence of this survey is impeding the settlement of landless tribals. Please indicate whether the survey has now been resumed, and if not what is planned in this connection. If the survey has been carried out, the Committee would be grateful if the Government would indicate its results.

8. Planning and execution of development projects. In its previous comments the Committee had asked for information on the continuing existence of the National Committee on the Chittagong Hill Tracts, and on the creation of the Special Committee on Hill Tracts Districts in 1989. It notes from the Government's report that the National Committee has ceased to function, having made the recommendations leading to the adoption of the legislation creating the Local Government Councils. In response to the Committee's request

for information on the activities of the Special Committee, the Government has indicated simply that its "main thrust so far has been on establishing the Local Government Councils on a firm footing". The Committee hopes that more detailed information will be included with the next report, including if possible, a copy of any periodic reports the Special Committee may have made.

9. In reply to its request for detailed information on the planning and implementation of development activities in the Hill Tracts, the Government has replied that the chairmen of the Local Government Councils also preside over the District Development Coordination Committees that coordinate the activities of the various nation-building departments of the Government; and that the Chittagong Hill Tracts Development Board has an advisory body that has several high-level tribal representatives as members. The Committee had hoped to receive more detailed information on the practical arrangements for coordination of development activities, and on the activities which have actually been carried out. It hopes that the Government will provide such information in its next report, again including if possible copies of any periodic reports which may have been issued on such activities.

10. Progress in achieving a negotiated settlement of the conflict and the return of tribal refugees. The Committee had noted in its previous comments the continuation of conflicts in the Hill Tracts and that many thousands of tribal refugees had fled to India. It regretted that the Government had provided no additional information in this connection, and requested it to provide information concerning: (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. In the absence of any further information on these questions, the Committee again requests the Government to reply to them in its next report.

11. Situation of other tribal populations of Bangladesh. The Committee recalled in its previous comments that it had 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 groups in the country. It asked the Government to provide information on any measures it might have taken concerning them. In reply, the Government has referred to its 1989 report; this report, however, did not contain the information which the Committee has requested. The Committee notes also that the Food and Agriculture Organisation of the United Nations, which is associated with the supervision of this Convention, has informed the ILO that there are some conflicts between the Garo tribal people (who live outside the Chittagong Hill Tracts) and the Forest Department. The Committee therefore repeats its request that the Government provide information in its next report on the situation of the tribal people in the country outside the Chittagong Hill Tracts as well.

[The Government is requested to report in detail for the period ending 30 June 1992.]

Bolivia (ratification: 1962)

1. The Committee takes note of the information contained in the Government's report and of the various documents enclosed.

2. The Committee notes with interest that the Indigenous and Tribal Peoples Convention, 1989 (No. 169), has been submitted to the National Parliament for approval. The Committee asks the Government to provide information on progress in this respect.

3. With reference to its previous comments concerning the demarcation of lands occupied by indigenous populations, particularly in the eastern part of the country, the Committee notes with satisfaction the adoption of Presidential Decree No. 22609 recognising the ownership of land by the indigenous populations living in the national park of Isiboro-Secure and giving 100,000 hectares to the Moxeño, Chiman and Yuracaré peoples, of Presidential Decree No. 22610 recognising the ownership of lands by the Sirionó people and giving 53,000 hectares in the Ibiato region, and of Presidential Decree No. 22611 recognising ownership of lands by the Chimán people, giving an extension of 800,000 hectares to the inhabitants of the "Bosque de Producción Permanente de Chimanés" in the Department of Beni.

4. With reference to its previous comments, the Committee notes with satisfaction the adoption of Presidential Decree No. 22503 which confers on the Bolivian Indigenous Institute the status of decentralised agency of the Ministry of Rural and Agricultural Affairs, with autonomous management. The above Decree lays down that the governing body of the Institute will include indigenous representatives.

5. With reference to its previous comments, the Committee notes with interest that special legislation is being prepared for forest-dwellers by a legal committee set up specifically for this purpose, with the participation of indigenous representatives. The Committee asks the Government to continue to report on progress in this respect. In this connection, the Committee recalls that the report prepared jointly by the ILO and the Inter-American Indian Institute (III) contained a proposal for a draft law on indigenous policies which could be used as a basis for government policy in this area. In view of the fruitful co-operation between the ILO and the III, the Committee hopes that, should the Government deem it appropriate, it will request further technical assistance of this nature and that it will obtain a positive response.

6. Lastly, the Committee recalls the Government's information to the effect that the joint ILO/III report was being evaluated. In addition to the adoption of new legislation dealing in particular with the rights of forest dwellers to their traditional lands and natural resources, the report proposed the creation of a high-level Inter-institutional Technical Committee comprising government and indigenous representatives, to guide and evaluate indigenous programmes and the co-ordination and adoption of decisions concerning these populations. The Committee asks the Government to indicate the action taken on this report.

7. The Committee asks the Government to refer to the request that it has addressed to it directly.

Brazil (ratification: 1965)

1. The Committee notes that a very detailed report was received from the Government only after the Committee's session had begun, and that it is therefore not possible to examine it in depth this year. For this reason, the Committee must concentrate on the following points of most immediate importance, and return to other questions next year. It hopes that, if the Government has further information to provide - as it has indicated in its report it would have - it will communicate this information in good time for the Committee's next session.

2. The Committee also notes the discussion of this question which took place in the Conference Committee on the Application of Standards in 1990, during which the Conference Committee recommended that the Government seek technical assistance from the International Labour Office. The Conference Committee also expressed the firm hope that it would be in a position next year to note a real change in the situation. The Committee of Experts endorses both these points.

3. New indigenous policy. The Committee notes with interest the discussions which have been proceeding in the country toward the adoption of a new policy toward the indigenous populations, including the transfer of the National Indian Foundation (FUNAI) from the Ministry of the Interior to the Ministry of Justice.

4. The Committee notes with particular interest the adoption of a number of decrees since July 1990 in this connection. Decree No. 99,405 created an interministerial working group to review the Government's Indian policy, and Decree No. 99,971 of 3 January 1991 created a Special Commission to review standards and criteria concerning the demarcation and protection of Indian lands. Another series of decrees was adopted on 4 February 1991:

- No. 22: Administrative procedures of demarcation of Indian lands.
- No. 23: Conditions for giving health assistance to indigenous populations.
- No. 24: Action to protect the environment in Indian lands.
- No. 25: Programmes and projects to ensure Indian self-sufficiency.
- No. 26: Indian education.
- No. 27: Conferring on the Special Commission created under Decree No. 99,971 responsibility for proposing the revision of the Indian Statute (Act No. 6001 of 1973) and related legislation.

5. The Committee awaits with interest the results of these various initiatives, in particular those intended to revise Indian policy and the legislation affecting the indigenous populations of the country. It encourages the Government to consult with the International Labour Office in this respect, in order to ensure the conformity of the new legislation and the new policy with the Government's obligations under the Convention.

6. The Committee expresses some concern, however, over the fact that Decrees Nos. 23, 24, 25 and 26 confer responsibility for the subjects they cover on Ministries other than the National Indian Foundation, though in each case it is specified that FUNAI shall be

jointly responsible with the ministry concerned. This raises the possibility of a lack of co-ordination. The Committee requests the Government to keep it closely informed of the working of these programmes.

7. Situation of the Yanomami People. The situation of this segment of the Indian population has been one of the Committee's constant concerns in recent years, since their land was invaded by some thousands of independent gold miners (garimpeiros), bringing disease, environmental destruction and other problems into these previously isolated areas. The Committee notes that a Yanomami Health Plan has been agreed upon, and is to begin functioning at the end of March 1991; it asks the Government to keep it informed of the results achieved.

8. The Committee understands from information provided by non-governmental organisations - especially the Commission for the Creation of the Yanomami Park - that FUNAI has recommended that the Government rescind decrees dividing Yanomami territory into 19 separated areas, and that one integrated reserve be created. The Committee hopes that this will be confirmed by the Government in the very near future.

9. Finally, however, the Committee notes that the Government still has not been able to expel all the garimpeiros from Yanomami territory, in spite of several campaigns for this purpose. It hopes that the Government will be able to accomplish this task very soon. Please indicate what action is being taken in this regard, and what success has been achieved. Please indicate also whether any efforts have been made to co-operate with the Government of Venezuela in this regard, in view of reports that the garimpeiros have crossed the border into Yanomami lands in that country.

[The Government is asked to supply full particulars to the Conference at its 78th Session.]

Costa Rica (ratification: 1959)

The Committee has noted the information contained in the Government's report, and refers to the request it is making directly to the Government.

In this connection, the Committee notes with concern the indications in the report and elsewhere that the National Commission for Indigenous Affairs (CONAI) has continued to have considerable trouble in the last several years operating a programme for the benefit of the indigenous populations of the country. The Committee also notes that the Government has proposed to the Legislative Assembly the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which partially revises the present Convention. Finally, the Committee notes the proposals for the adoption of regulations to the Indian Act, No. 6172 of 1977.

The Committee suggests that the Government may wish to have recourse to the assistance of the ILO Regional Adviser on Rural Development and Indigenous Populations, and to the technical assistance available from the Office, in order to put an effective system for managing indigenous affairs into place.

India (ratification: 1958)

1. The Committee notes the discussion of the application of this Convention in the Conference Committee in 1990, and the information provided by the Government on that occasion concerning the questions raised in the Committee's previous observation. A brief further report on this question was also received during the week the Committee's session opened, and a report on the issues raised in the request addressed directly to the Government in 1990 was also received only very shortly before the Committee's session began.

2. The Committee has referred in comments addressed directly to the Government to a number of important questions affecting the 51 million tribal people in the country. It notes in that request that on a number of issues the Government has not provided information on the situation in practice, but has restricted itself to a reference to earlier reports. It hopes that in its next report the Government will make every effort to provide detailed information, and that it will submit a report in time for the Committee to examine it fully before its session begins.

3. The Sardar Sarovar Dam and Power Project. The Committee of Experts and the Conference Committee have had a dialogue about this subject for several years. The situation at issue is the construction of a large hydroelectric dam project, and the consequent removal from their lands of some 100,000 people, including some 60,000 tribals. The project is being financed in part by the World Bank. The Committee has on several occasions examined information received from the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW), forwarding studies carried out on the subject by the non-governmental organisation Survival International. This information has alleged that the displacement of these tribal people is not in conformity with the Convention - in particular its Article 12 - and that the situation will become worse in the future with the planned displacement of up to 1 million more people at future stages of construction.

4. A further communication from the IFPAAW and Survival International was forwarded to the Government on 17 December 1990. In its reply received on 4 March 1991, the Government referred to the information it provided to the Conference Committee in 1990, and provided some additional information. Some additional information was also received from the World Bank, to whom the IFPAAW communication had also been sent.

5. The communication from the IFPAAW states that despite the recommendations made by the Committee of Experts in 1990, the Government has not taken any positive action to guarantee appropriate compensation for displaced persons in accordance with Article 12 of the Convention. It states also that project authorities and Government officials have increasingly been resorting to force and violence in this connection. It notes that the Japanese Ministry of Foreign Affairs decided during 1990 that it would discontinue financing of the project, because the resettlement plans for those being displaced remain inadequate. The World Bank had renewed funding until July 1991 on the finding that progress on the conditions laid down was satisfactory, and this decision was said to be a political

one taken despite violations of conditions and disregard for deadlines set. The IFPAAW also alleged that the Government has not yet been able to identify sufficient and adequate resettlement land, especially for people wanting to stay in their own State of Madhya Pradesh, and that people are being moved to inadequate resettlement sites in Gujarat. Finally, the IFPAAW states that the villages that have been resettled face acute health problems and land and water shortages.

6. A communication from the World Bank in reply to the IFPAAW communication stated that the decision to extend financing was made only after an exhaustive investigation of the project performance by the Bank staff, who visited the project site and concluded that overall implementation continued to be satisfactory. It also stated that the decision was made on technical, not political, grounds. The Bank was working with the Government and project authorities to help ensure that resettlement and rehabilitation policies and programmes are properly carried out.

7. The Government stated in its communication received on 4 March 1991 that the Union Cabinet has approved the release of forest land for rehabilitation and resettlement of tribals displaced in Maharashtra, subject to compensatory afforestation by the State Government, and that the Narmada Control Authority is taking steps to prepare an action plan for this purpose.

8. In the information provided to the Conference Committee the Government stated that the allegations made by the IFPAAW were too general. It also provided a considerable amount of information on the number of families in each of the three States affected and the amount of land required for their resettlement.

9. The continuing efforts being made in this connection are evident from the information received. It is less evident, however, that these efforts have yet been successful. The Committee understands from the information provided that there is still a gap between the resettlement needs of the tribal populations being displaced and the amount of land available. It has no conclusive information on whether these lands are appropriate to the needs of these tribal populations, and whether the populations are fully compensated for the damages incurred by their displacement, but notes that non-governmental organisations both inside the country and outside have expressed very serious reservations in this regard. It hopes that information will continue to be provided on the progress achieved. It also again expresses concern, in view of the problems involved in resettling these "oustees", over the possibility of resettling some hundreds of thousands of others in future years as further stages of planned construction are implemented, in a manner which complies with the Convention's requirements.

10. The Committee recalls that the Convention recognises rights to land which is "traditionally occupied" by tribal populations (Article 11), and that the meaning of this term in the present context has been the subject of discussion for some time. The IFPAAW has alleged that the Government is not fully compensating tribals who have traditionally occupied land to which the Government has title, especially when those tribals practice various forms of shared use, gathering of forest products and herding on these lands instead of settled cultivation. The Government has stated that the concept of

traditional occupation does not apply to "encroachment" on government-owned lands, and particularly to recent encroachment; but that it has provided for compensation for displaced tribals even in cases where they have no clear traditional rights. The Committee has noted that the term "traditional occupation" is imprecise, but that the kinds of land use for which no compensation is given would appear to fall within the meaning of the term. However, the information before the Committee is not sufficiently clear to enable it to decide that traditional occupation has - or has not - been established in particular cases. In the information provided to the Conference Committee, the Government again raised the question, particularly in relation to the length of time lands would have to be occupied before the occupation could be considered traditional, but provided no additional information in this respect. The Committee therefore sees no reason to change its previous conclusions. It refers, however, to the concerns expressed in the Report of the Commissioner for Scheduled Castes and Scheduled Tribes (1987-89), over the denial of land rights to tribals who have long occupied land to which the Government has asserted title; these concerns correspond to the position expressed by Survival International and the IFPAAW, and to the concerns expressed by the Committee.

11. As concerns the health of the tribal populations that have been resettled, the Committee noted previously that steps were being taken to provide health care to displaced tribals in Gujarat, and the Committee requested information on steps taken in Madhya Pradesh and Maharashtra, the other two States affected. As the Government has provided no additional information in this connection, the Committee requests it to do so. It would also appreciate receiving information on the environmental concerns raised previously.

[The Government is asked to report in detail for the period ending 30 June 1992.]

Mexico (ratification: 1959)

The Committee notes with interest that the Government has ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and that it will enter into force for Mexico in September 1991. This implies the automatic denunciation of the present Convention. However, the Committee would ask the Government, in its first report on Convention No. 169 to reply to the points raised in this observation and in the request being addressed to it directly.

The Committee also notes with interest that the National Commission of Justice for Indigenous Peoples has drafted a proposal to reform the Constitution in order to ensure recognition of the historical and cultural rights of indigenous peoples, which was submitted to the President of the Republic in April 1990. The Committee would be grateful if the Government would report on the action taken on this initiative.

The Committee notes with interest the Programme for the Development of Indigenous Peoples, 1991-94. The Committee would be grateful if the Government would supply information in its next report

on the results obtained by the various projects and subprojects making up the above Programme.

Panama (ratification: 1971)

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

The Committee noted with interest the detailed report and additional information provided by the Government.

While a certain number of points are being raised in the request being addressed directly to the Government, the Committee wishes to take special note of the approach to relations between the national authorities and the indigenous communities of the country, which appears from the report. It welcomes in particular the fact that problems appear to be settled by discussion and negotiation, including questions related to the resettlement of Indian communities when they are affected by economic development projects, and compensation for the exploitation of natural resources on their lands and participation in the benefits of such exploitation.

The Committee hopes that the Government will continue to provide information in future reports on developments in relation to this Convention.

Paraguay (ratification: 1969)

The Committee has noted with interest the Government's report and the documentation appended to it.

The Committee notes, both from the Government's report and from other information available, that neither the National Indian Institute (INDI) nor any other government agency appears to have a global responsibility for questions concerning indigenous affairs. In fact, according to the report, INDI is only just beginning to be involved in the planning and execution of large-scale development projects (financed by the Inter-American Development Bank and the World Bank among others), which have "indigenous components" and affect these populations in the most direct manner. This refers in particular to large-scale hydroelectric and other projects, sometimes involving the displacement and resettlement of indigenous communities.

It is evident at the same time from the information available that non-governmental organisations, including religious missionary groups of several denominations and others, work in indigenous areas almost without supervision. It appears that they sometimes exercise extraordinary authority over the communities within their area of influence, and there have even been allegations of forced conversions and detention against the will of those concerned.

This information gives rise to a concern in the Committee over whether the Government is in fact "developing co-ordinated and systematic action for the protection of the populations concerned" (Article 2 of the Convention), whether it has met the requirement to

"create or develop agencies to administer the programmes involved" in applying the Convention (Article 27), and whether the "improvement of the conditions of life and work and level of education of the populations concerned" are being "given high priority in plans for the overall development of areas inhabited by these populations" (Article 6). The Committee hopes that the Government will provide information in this respect in its next report, including information on the "indigenous components" of projects financed by the Inter-American Development Bank and the World Bank and the manner in which they are negotiated and implemented. It suggests that technical assistance from bodies such as the International Labour Office, the Inter-American Indian Institute or others, may be of help in putting into place an adequate Government structure for the management of indigenous affairs.

[The Government is requested to report in detail for the period ending 30 June 1992.]

Peru (ratification: 1960)

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

1. The Committee notes the information concerning the communication of the Inter-Ethnic Association for the Development of the Peruvian Forest (AIDSESP), submitted to the Government on 29 January 1987. The AIDSESP states in its communication that the lands of a number of indigenous communities of the Raymondi district in the Atalaya Province of the Department of Ucayali were invaded and taken by force by large numbers of settlers, in violation of the provisions of Articles 11 and 12 of the Convention, without any intervention by the Government.

2. The Committee notes the Government's comments on the AIDSESP communication which states that during 1986 there were confrontations between settlers and the indigenous communities living in Tsuntsuntsa in the Atalaya Province of the Department of Ucayali. The Government states that the conflict was settled by the land court of Jaén which ordered the evacuation of 15 settlers who had invaded the lands of the indigenous communities in question, that the court decision was executed, according to the Government, on 25 January 1986 and that the settlers were given six months in which to evacuate the lands. However, the Committee notes that the Government does not refer to the other cases mentioned both in the AIDSESP communication and in the detailed report of the Peruvian Indian Institute (IIP) concerning the confrontations occurring in the Province of Atalaya, which confirms the violations alleged by the AIDSESP. The report in question is based on the investigation on the spot conducted from 1 to 10 December 1986, after the date of the decision of the above-mentioned court and the execution of that decision. The IIP document refers in detail to the different violations committed against the indigenous communities of Tahuanti and

Sabaluyo-Mamoriari and also formulates a number of recommendations for settling the conflict.

3. The Committee would be grateful if the Government would provide information on the measures it has taken or is contemplating to solve the problems referred to by the AIDSEP, taking account, in particular, of the recommendations contained in the IIP report.

4. The Committee refers to other questions in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Argentina, Bolivia, Colombia, Costa Rica, El Salvador, India, Iraq, Mexico, Panama, Paraguay, Peru, Syrian Arab Republic.

Convention No. 108: Seafarers' Identity Documents, 1958

Honduras (ratification: 1960)

In previous comments the Committee noted that the Ministry of Finance had 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 insertion is provided for in Decree No. 462 of 1977. The Government again refers in its report to the official letter addressed to the Ministry of Finance. The Committee asks the Government to provide a specimen of the above identity document duly completed with the above-mentioned statement.

* * *

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

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

Argentina (ratification: 1968)

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 takes note with satisfaction of Act No. 32592 of 3 August 1988 concerning discrimination, establishing sanctions for discriminatory acts or omissions on grounds such as race, religion, nationality, ideology, political opinion or trade union leanings, sex, economic or social status, or physical characteristics. .

2. In earlier comments, the Committee has been referring to the provisions of sections 8(g) and 33(g) of Act No. 22140 of 1980 concerning the basic terms and conditions of employment in the public service, under which entry into the national public administration can be refused and public servants can be dismissed for belonging, or having belonged to groups advocating the denial of the principles of the Constitution or for adhering personally to a doctrine of this kind.

The Committee notes with interest that, according to the Government's report, the sections of Act No. 22140 which have been the subject of past comments are to be considered as having been tacitly repealed by virtue of the adoption of the Act concerning discrimination. The Government also indicates that the Public Education Secretariat is in the process of conducting an analytical study of the regime approved by Act No. 22140.

The Committee hopes that, to avoid all uncertainty as to the application of sections 8(g) and 33(g) of Act No. 22140, these sections will be explicitly repealed and that the Government will provide information on the measures taken to this end.

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

Barbados (ratification: 1974)

The Committee notes the Government's report, including the comment from the Barbados Sugar Industry Limited concerning the Committee's previous observation on the application in the sugar industry of Convention No. 100 on equal remuneration between men and women. The Committee will take up the Sugar Industry's comment at its next session when the Government's report on Convention No. 100 will be due for examination.

The Committee recalls that, following the Government's earlier indication on the unlikely prospect of adoption of the Employment and Related Provisions Bill, prepared in 1978 in order to give effect to the Convention, the Committee has requested information on measures taken, including any legislative provisions adopted, to apply the Government's declared policy of non-discrimination against women and to prohibit discrimination in employment and occupation in accordance with the Convention. The Committee trusts that the Government will be able in its next report to indicate further progress in this field.

Brazil (ratification: 1965)

With reference to its previous comments, the Committee notes with satisfaction that Act No. 7855 of 24 October 1989, to amend the Consolidation of Labour Laws, has repealed section 446 thereof, which entitled the husband to demand the cancellation of the contract of employment of his wife if its continuance would constitute a menace to the family tie.

The Committee is also addressing a request directly to the Government concerning other aspects of the application of this Convention.

Bulgaria (ratification: 1961)

Further to its previous comments, the Committee notes the information supplied by the Government at the Conference Committee in 1990, and in its last report, as well as the documentation appended thereto.

Constitutional and legislative provisions
concerning discrimination in employment
and occupation

1. The Committee notes with satisfaction the amendments to the Constitution published on 10 April 1990, which delete all references to the leading role of the Communist Party in society and in the State and provide for political pluralism and the right for citizens to freely express and circulate their opinion on matters of a political, economic, social, cultural and religious nature, thus eliminating the basis for the application of distinctions, exclusions or preferences in employment and occupation based on political opinion.

2. The Committee also notes with satisfaction that section 172 of the Penal Code, as amended by the Act of 19 December 1990, punishes with imprisonment or fine anyone who knowingly prevents someone from taking up work or forces someone to quit work on the grounds of ethnicity, race, religion, social status, affiliation or non-affiliation to a party, organisation, political movement or politically oriented coalition, or on the grounds of his/her political ideas or the ideas of his/her close relations; and that paragraph (2) thereof provides for a prison sentence for any public official who does not implement an order or decision to reinstate a worker or a public official whose employment has been wrongly terminated.

3. The Committee notes with interest that the newly elected National Assembly will be involved in a vast law-making activity, including the adoption of a new Constitution and a revision of the Labour Code, in which the Committee's comments will be duly taken into consideration. The Committee recalls that article 35(2) of the Constitution and section 8(3) of the 1987 Labour Code do not mention "political opinion" and "national extraction" among the grounds on which no discrimination, privilege or restriction is allowed, and hopes that these provisions will be amended in accordance with Article 1, paragraph 1(a), of the Convention. The Committee is drawing attention to other provisions of the Labour Code in a request addressed directly to the Government.

The position of the minority of Turkish origin

4. In its previous observation, following 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, which referred to a campaign aiming at suppressing the cultural identity of the minority of Turkish origin in Bulgaria, particularly by the compulsory change of names and the prohibition of using the Turkish language, the Committee had taken note 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 these violations of the principle of equality laid down in Article 35 of the Constitution and to reaffirm the rights of all citizens to: freedom of conscience, belief and religion; free choice of name; and, subject to recognition and use of Bulgarian as the official language, freedom to speak other languages. The Committee had asked for information on the further measures taken in pursuance of these decisions and for particular steps taken to enable persons who had suffered discrimination as a result of the earlier policy to obtain redress.

5. The Committee notes with interest the adoption of Act No. 243 of 9 March 1990, as amended on 15 November 1990, on the names of Bulgarian citizens, which declares illegal, under the Penal Code, the use of threats, constraint, force, lie or abuse of power or any other illegal action in connection with the choice, retention, change or re-establishment of the name, and which enables all Bulgarian citizens whose name had been changed by force to return to their former name by a simplified procedure. It notes the Government's statement that the adoption of this Act put an end to the consequences of past actions intended to change Turkish-Arab names, and that now the enjoyment of the right to the free choice of name is in accordance with the principles contained in the Convention. The Committee also notes the changes towards recognition of the cultural identity of the minority of Turkish origin in the establishment of a Muslim secondary school and a Muslim non-university school in Sofia, as well as the publication of the journal "Nova Svetlina" (New Light) in both Bulgarian and Turk languages.

6. With regard to the measures taken to enable persons who had suffered discrimination as a result of the earlier policy to obtain redress, the Committee takes note of Order No. 57 of 1 June 1990, which establishes an indemnity for all persons forcibly expelled in September and October 1989, and of Decision No. 8 of the Parliament Committee declaring the political and civil rehabilitation of 517 persons unjustly deprived of liberty and detained at Béléné in relation to the forced change of names. The Committee requests the Government to indicate the measures which have been taken to ensure that these persons, as well as other persons whose employment was terminated because of their failure to change their name or on account of their Turkish origin, are reinstated in their former employment or occupation, that their rights arising out of their former employment or occupation are recognised and that they are effectively compensated for the losses incurred.

7. The Committee notes the statement by a government representative at the Conference Committee to the effect that from May to October 1989, over 300,000 persons had left the country, most of them in order to find better conditions of work and remuneration abroad. Many of them left their jobs hastily, without respecting the

provisions of the Labour Code, and were therefore dismissed according to disciplinary procedures. Some of them had sold their property - houses and goods - or cancelled their leases. More than 130,000 of them had returned to Bulgaria between June and December 1989, and by June 1990 this figure had reached 220,000. The two main problems faced by the returnees were employment and housing. In this regard, the Committee notes with interest that Order No. 29 of 9 April 1990, which sets out to solve the social problems of Bulgarian citizens in certain regions of the country, addresses the housing problems faced by returnees through various measures including provision for returning citizens to repurchase their former house and priority for the construction of new housing along with measures of public assistance and education to allow students in those areas to resume their studies. With regard to the employment problems faced by the returnees, the Government states that 121 employment offices, which were opened in January 1990 throughout the country, are at the disposal of all citizens on an equal basis and give special consideration to those who had returned from abroad and were having problems. In the city of Tolbouhin, factories had rehired those returning workers who had suffered disciplinary dismissals. Generally though, return to work of the workers of the Turkish origin, including those who returned from abroad, was being dealt with on an individual case basis. The Committee takes note of this information and requests the Government to continue to provide information (including statistics), on all measures taken or contemplated to assist persons of Turkish origin who returned to Bulgaria after having left the country as a result of the earlier policy to find appropriate employment and housing.

8. The Committee requests the Government to provide information on the measures taken or envisaged generally to promote equality of opportunity and treatment for the minority of Turkish origin, and on the results obtained with regard to:

- access to vocational training;
- access to employment and to particular occupations;
- terms and conditions of employment.

The Committee also recalls that under Article 3, paragraphs 1 and 2, of the Convention, the Government is required to seek the co-operation of employers' and workers' organisations and other appropriate bodies, and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy of equality of opportunity and treatment, and it hopes that the next report will indicate the steps taken to foster understanding and tolerance between various groups of the population.

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

Chile (ratification: 1971)

1. Labour Code. The Committee notes with satisfaction Act No. 19.010 establishing rules on the termination of work contracts and stability of employment (Official Gazette, 29 Nov. 1990), which repeals section 157(6) of the Labour Code whereby a labour contract

lapses where an offence has been committed under Act No. 12927 of 1958 on state security, as amended by Act No. 18256 of 26 October 1983.

2. Act No. 18662 of 27 October 1987. The Committee also notes with satisfaction that, pursuant to section 1 of Act No. 19048 of 13 February 1991, Act No. 18662 which referred to former section 8 of the Constitution has been repealed.

3. With reference to its previous comments, the Committee notes with interest the Government's statement that section 8 of the National Constitution has been repealed by Constitutional Reform Act No. 18825 of 16 August 1989 and that, consequently, persons convicted by the Constitutional Court of committing the acts specified in above-mentioned section 8 must be acquitted as these acts no longer constitute an offence. By virtue of the above reform, the Constitutional Court resolved to lift the penalties imposed on Mr. Clodomiro Almeyda Medina. The Committee asks the Government to continue to inform it of any further such decisions of the Constitutional Court.

4. Decrees relating to universities. In its previous comments, the Committee requested the Government to explicitly repeal certain Decrees (Nos. 112 and 139 of 1973; Nos. 473 and 762 of 1974 and Nos. 1321 and 1412 of 1976) which grant broad discretionary powers to university rectors to terminate the contracts of teaching and administrative staff. The Committee also requested the repeal or amendment of section 55 of Legislative Decree No. 153 respecting the legal status of the University of Chile, and section 35 of Legislative Decree No. 149 respecting the Statutes of the University of Santiago, in order to ensure protection against discrimination on grounds of political opinion. The Committee notes the Government's statement that the Committee's request has been transmitted to the new Ministry of Education authorities which are examining the matter but that the above texts can only be repealed or amended by a law passed by the National Congress. The Committee trusts that the Government will take the necessary measures and hopes that the next report will indicate further progress made in this respect.

Colombia (ratification: 1969)

The Committee refers to its previous comments and takes note of the Government's report received in January and November 1990.

1. Application of the Convention in the Public Service

In previous comments, the Committee has noted that by virtue of the provisions of the national legislation (Decrees Nos. 2400 of 1968 and No. 1950 of 1973) the power of free appointment and dismissal may be exercised by a large number of public servants and applies to many posts, and that this could lead to the adoption of decisions that are arbitrary and contrary to the Convention. The Committee takes note of Act No. 61 of 1987 transmitted by the Government, which, inter alia, issues rules on careers in the administration. Section 1 of this Act amending and supplementing Decree No. 2400, specifies the posts

subject to free appointment and dismissal. The Committee notes that free appointment and dismissal still apply to a large number of posts and have been extended to those of rectors, vice-rectors and deans of universities and their secretariat staff, and to employees of the General Directorate of Customs and Taxes.

With regard to public employees in industrial and commercial state enterprises (section 1(i) of Act No. 61 of 1987) which are included in the category subject to free appointment and dismissal, the Committee duly notes that section 3 of Decree No. 1950 of 24 September 1973 defines public employees as persons holding the management posts or positions of trust specified in the statutes of such enterprises. The Committee wishes to point out that, even in the case of management posts or positions of trust, the appointment and dismissal of their holders should not automatically be freed from the protection against discrimination laid down in the Convention, particularly discrimination on grounds of political opinion.

The Committee notes in this connection that according to Report No. 259 of the Committee on Freedom of Association (Case No. 1465) (Executive Decrees No. 1044 of 1987 and No. 510 of 1988), 478 "official workers" were reclassified as public employees at Colombian National Railways and are therefore subject to free appointment and dismissal and consequently to possible discrimination contrary to the Convention. In this connection, the Committee refers to its General Survey of 1988 on Equality in Employment and Occupation, and particularly to the indications concerning the manner in which the terms of Article 1, paragraph 2, of the Convention should be applied, according to which any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination. As regards the public service in particular, it is admissible to take account of the political opinions of those concerned only in the case of certain higher posts which are directly concerned with implementing government policy.

In its previous observation, the Committee referred to the allegations of the United Central Workers' Organisation (CUT) that dismissals for political reasons are still occurring in the public sector owing to the absence of a true administrative career structure and that the relevant provisions in force are only applied at national level. The Committee notes the Government's statement in its report, that the administration is alert to the matter and has exercised strict control to avoid further dismissals of this nature which occur particularly at regional level. The Committee notes with interest the Circular of 28 June 1989 sent for this purpose by the Ministers of Government and Labour and Social Security to the heads of all provincial and local administrations.

The Committee also notes with interest Act No. 10 of 1990 to reorganise the National Health System and establish rules governing the administrative careers of personnel in the National Health system, including the provincial and local public health sectors. Section 27 of the Act provides that municipalities must apply the administrative career rules by 30 July 1991 at the latest, and the other levels of administration before 30 December 1990. The Committee notes the Government's statement that, pending the issuance of rules governing careers in local and provincial administrations for public employees

in all other departments, municipalities and mayors shall apply to their employees the disciplinary system established for public employees in the national administration in Act No. 13 of 1984 and Regulatory Decree No. 482 of 1985.

The Committee requests the Government to report on measures taken or envisaged to limit the jobs subject to free appointment and dismissal at both national level and local levels of administration so as to prevent dismissals of a discriminatory nature and particularly dismissals on grounds of political opinion or affiliation. The Committee hopes that the Bill to establish an administrative career structure at levels other than the national level, to which the Government referred previously, will be adopted shortly and that the Government will continue to report on measures taken to eliminate discrimination in employment for political reasons, in conformity with the Convention.

2. Discrimination on grounds of sex

The Committee recalls the allegations of the CUT concerning practices which are discriminatory on grounds of sex: negative pregnancy test before employing a woman, lower wages of women in percentage terms and absence of protection against sexual harassment.

The Committee again requests the Government to provide information on the allegations submitted by the United Central Workers' Organisation and on any measures taken or envisaged to implement the Convention in respect of the matters raised, in particular on the practical effect given to the provisions of Decree No. 1398 of 1990 which aims, inter alia, at eliminating discrimination in employment and provides for measures for inspection and supervision in this field.

Cuba (ratification: 1965)

Further to its previous comments, the Committee notes the information supplied by the Government in its report. It also notes the comments concerning the application of the Convention made by the International Confederation of Free Trade Unions (ICFTU) in its letter dated 31 January 1991, which were transmitted to the Government by a letter from the ILO dated 19 February 1991. The Committee hopes that the Government will forward its comments on the questions raised by the ICFTU so that the Committee can examine them at its next session.

The Committee recalls its previous comments, which concerned a series of legal texts and regulations under which access to training and employment, as well as the assessment of workers for the purposes of selection and assignment and to determine their merits and demerits, are dependent on the political attitude of the persons concerned.

The Committee notes, according to the Government's report, that most of the texts referred to in its previous comments have been repealed and replaced by more recent texts. It notes the new texts transmitted by the Government and the information that it supplied on this subject.

Access to training

1. The Government points out in particular that the academic index is the principal factor determining the position of each student in the list of candidates for admission to post-secondary studies (Resolution No. 53/90 of 30 March 1990, of the Ministry of Education) or to higher education (Resolution No. 1/89 of 18 March 1989, of the Ministry of Education) and that, in these Resolutions, as well as in Resolution No. 260/88 of 16 May 1988 of the Ministry of Education, no conditions are established of an ideological or political nature which could change the academic index for the purposes of the list of candidates.

The Committee notes with some concern that, when establishing the above lists of candidates, reference is made to candidates "who have received the approval of the school and the student collective" (Resolution No. 1/89, paragraph 2) and that a separation is made between "those who have received approval and those who have not, distributed according to the academic index" (Resolution No. 260/88, paragraph 5). The Committee would be grateful if the Government would indicate the criteria on which this approval is granted to candidates.

2. With reference to Resolution No. 138/90 of 22 March 1990, which establishes the conditions for admission to the "Manuel Ascunse Domenech" Teaching Unit, the requirements set out in paragraph 1 of the Resolution include those of "obtaining the approval of the student collective", "succeeding in the interview in which it is established that applicants fulfil the conditions that are required to opt for teaching careers" and of "being unconditionally and permanently ready to serve the revolution". It also notes (paragraph 9 of the Resolution) that the subcommittees that are responsible for conducting these interviews include representatives of students from the Federation of Students of Intermediate Teaching and from the Union of Young Communists.

The Committee also notes that Resolution No. 250/81, of 31 July 1981, of the Ministry of Higher Education (issuing the regulations respecting "directed courses"), as amended by Resolution No. 66/85 of 26 March 1985, although it no longer refers in section 7 to the "established political and moral conditions", nevertheless requires an attitude that conforms to the "moral principles" which, as in the case of the above political and moral conditions, have to be approved by the "administration or trade union chapter, or by the corresponding mass organisations".

The Committee would be grateful if the Government would indicate the measures that have been taken or are envisaged to ensure that the content and application of these provisions of Resolution No. 138/90 and of Resolution No. 250/81, as amended, cannot give rise to discrimination on the grounds of political opinion, which would be contrary to the requirements of the Convention.

Access to employment

3. With regard to access to employment, the Committee inquired in its previous comments as to the current situation regarding the application of the Resolution of the First Congress of the Communist

Party of Cuba of 1975, which approved the policy respecting managerial staff, basing it, in particular, on political reliability and on the ideological and revolutionary firm conviction of the personnel concerned.

The Government states that the theses and resolutions of the Communist Party of Cuba are renewed or reaffirmed at each Party Congress and are given force in law by the texts of the national legislation; in the case of the policy on managerial staff, these texts are Legislative Decree No. 82 of 1984 and Decree No. 125 of 1984 issued under the above Legislative Decree, which make no reference to political elements that could be discriminatory.

In this connection, the Committee notes the list of the functions of the State under the system governed by the above two texts of 1984, which was supplied by the Government in its report in reply to the Committee's request. It notes that this list of functions, in addition to those of the central administration and the local authorities, includes those of managers of enterprises, groups of enterprises and departments of enterprises, and of the persons in charge of factories, workshops, brigades and teams.

The Committee also notes the document on the management structure of the education system, which was transmitted by the Government. It notes that the conditions that are required to hold a managerial position in the education system include the "unquantifiable conditions" set out in paragraph 1.2.2 of the document, which include the "spirit of collectivism" and "attachment to the masses and trust and respect of the masses".

The Committee recalls that the Resolution of the First Congress of the Communist Party of Cuba, which is referred to above, called for the establishment of a list of functions which includes fundamental functions, including those of the State, which must be controlled by the Party. The Committee would be grateful if the Government would state whether the list of functions that was transmitted in the report corresponds with the list called for by the above Resolution. It wishes to draw the Government's attention in this connection to the comments that it made in paragraphs 60 and 126 of its 1983 General Survey on Equality in Employment and Occupation respecting discrimination based on political opinion in jobs in economic sectors and in the public service. The Committee emphasises in particular that political opinion should only be taken into account if this is actually justified by the inherent requirements of the jobs or functions concerned.

4. The Committee referred in its previous comments to Ministerial Resolution No. 235/82, of 12 June 1982, laying down the rules for the inspection system of the Ministry of Education, which requires of inspectors a political and moral conduct that is in keeping with the principles and aims of the socialist State (section 46(a)). It notes that Resolution No. 235/82 was repealed by Resolution No. 590/86 of 4 December 1986. The Committee notes that the rules for the inspection system established by Resolution No. 590/86 require, as regards both objectives and methods of inspection, that criteria such as an analysis that is always made "from the point of view of the policy of the Communist Party of Cuba" (section 2) or evaluation that takes into account "the political, ideological and

scientific content" (section 8) be used when assessing the effectiveness of the teaching and education process and the results obtained. The Committee considers that these criteria may result in discrimination based on political opinion in the education of schoolchildren and students, in the employment of inspectors, in the assessment of their work as well as that of the work of teachers who are inspected.

The Committee would be grateful if the Government would supply information on the effect given in practice to these provisions in the inspection of the education system. It hopes in any case that the Government will take the appropriate measures to ensure the conformity of the national law and practice with the Convention.

5. With reference to Legislative Decree No. 34, of 12 March 1980, which authorises the dismissal of certain staff members in higher education establishments for conduct including activities contrary to socialist morality and the ideological principles of society, the Government states that its application is a rare exception and that its effect has been reduced by Joint Resolution No. 2, of 20 December 1989, of the Ministers of Education and Higher Education, which deals with the rehabilitation of educational workers to whom Legislative Decree No. 34 of 1980 has been applied. The Government also states that it has noted the Committee's observation for an examination of these aspects of the Legislative Decree if the latter is amended.

The Committee hopes that the legislation will be brought into conformity with the Convention on this point and requests the Government to supply information on the effect given in practice to the provisions of Legislative Decree No. 34 of 1980 and of Resolution No. 2 of 1989, and to supply the text of this latter Resolution.

Evaluation of workers

6. The Committee notes the Government's statement that Resolution No. 2173, of 2 November 1983, concerning the updating of data (including data on political integration) contained in the work record is no longer in force since its application was limited to the census of skilled labour carried out in 1985. The Committee recalls that, according to section 61 of the Labour Code, the work record is the document which contains the entries and record of the work history of the worker, and that the work unit is responsible for establishing, updating and keeping the work record for each staff member. The Committee therefore infers that the data on political integration that was updated for the 1985 census will remain in the work record and could serve as grounds for discrimination based on political opinion.

The Committee notes in this connection the information supplied by the Government concerning Resolution No. 51/88 of 12 December 1988, issuing the rules for the implementation of the employment policy, and particularly Chapter VI of the rules, which cover the work record. It notes that section 129 of the rules reproduces the provisions of section 61 of the Labour Code referred to above.

The Committee also notes that, by virtue of section 130 of the above rules, the contents of the work record must include the following documents: "(e) copies of evaluation certificates" and "(i)

work-related merits; (j) relevant non-work-related merits; (k) work-related demerits". The Committee refers in this connection to Resolution No. 590/80, of 11 December 1980, of the State Committee on Labour and Social Security. It notes that, according to section 5 of Resolution No. 590/80, "work-related merits" are considered to include "(d) being selected to undertake an international mission and maintaining an attitude that conforms to the principle of proletarian internationalism while undertaking the mission". The Committee also notes that, by virtue of section 6 of the same Resolution, the work record may also include notification of distinctions which do not constitute work-related merits, but which are awarded, among others, by mass organisations or official institutions and which bear witness to the "revolutionary attitude of the worker outside his workplace".

The Committee requests the Government to indicate whether it intends to modify the above provisions of the national legislation in order to ensure their conformity with the Convention in respect of the elimination of all discrimination based on political opinion.

7. The Committee is addressing a request directly to the Government on other points related to the questions that have been raised.

Czechoslovakia (ratification: 1964)

With reference to its previous observation and the discussions which took place in the Conference Committee in 1990, the Committee notes that the report of the Government, which was received only on 12 March 1991, contains detailed documentation in the Czech language. The Committee will thus examine this report at its next session.

Denmark (ratification: 1960)

In its previous observation following comments made by the Federation of Danish Trade Unions (LO), the Danish Seamen's Union and the Federation of Danish Public Servants' and Salaried Employees' Organisations (FTF), the Committee had raised the question of the compatibility with the Convention of section 10 of the Act on the Danish International Ships Register of 23 June 1988. By virtue of this provision, Danish wage-earner organisations can conclude collective agreements concerning employment on board ships registered in the Danish International Ships Register only for persons resident in Denmark and for persons put on the same footing as residents under international agreements; and foreign wage-earner organisations may conclude parallel agreements for persons of their own nationalities. Pursuant to this law, collective agreements providing for lower wage rates than those set by collective agreements applicable to seamen resident in Denmark, were concluded with shipping organisations from the Philippines and Singapore for nationals of those countries.

The Committee takes note of the discussions which took place concerning this subject at the Conference Committee in 1989. It also takes note of the information contained in the last report of the Government as well as the comments of 9 January 1991 submitted by the

Danish Seamen's Union and the reply of the Government. The Committee observes that, to the extent that the distinctions made under section 10 of the Act of 23 June 1988, between persons employed to work on ships registered in the Danish International Ships Register, are based on criteria of residence and of nationality, which are not among the explicit grounds set out in the Convention, such distinctions are not covered by the Convention. However, since the Convention requires the protection of foreign nationals against any form of discrimination, based not on their foreign nationality but on any of the grounds provided for in Article 1, paragraph 1(a), of the Convention, the Committee would be grateful if the Government would supply full information, including the text of collective agreements covering ships registered in the Danish International Ships Register, to enable the Committee to ascertain that beyond residence and nationality, no discrimination is involved, not even indirectly, on any of the grounds prohibited by the Convention.

On the general problem of International Ship Registry, the Committee refers to paragraphs 56 and 57 of its General Report.

Dominican Republic (ratification: 1962)

Further to its previous comments, the Committee notes the report of the Government which also refers to information supplied in the Government's report on the application of Convention No. 105.

1. The Committee requests the Government to refer to the observation on the application of Convention No. 105 as concerns the situation of Haitian workers or workers of Haitian origin in sugar plantations, particularly as regards the discriminatory practices to which they are subject in their conditions of work and wages.

2. The Committee again requests the Government to provide details on the situation of Haitian workers or workers of Haitian origin who are, according to the information furnished previously by the Government, engaged in other sectors of activity such as agricultural work, stock-raising or construction.

3. The Committee notes the statement of the Government according to which it expects to complete revision of the Labour Code in 1992. The Committee reiterates its firm 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 the grounds of race, colour, sex, religion, political opinion, national extraction or social origin, in accordance with Article 1, paragraph 1(a), of the Convention.

Ecuador (ratification: 1962)

1. With reference to its previous comments, the Committee notes the Government's statement that the draft provisions to amend section 17 (b) of the Regulations issued under the Co-operatives Act (husband's authorisation for a married woman to become a member of

housing, agricultural or family vegetable garden co-operatives) will take the form of a Resolution of Congress rather than an Executive Agreement in order to give them greater legal force. The Committee requests the Government to provide a copy of the Resolution as soon as it has been adopted.

2. The Committee notes that the draft Legislative Decree to amend section 12 of the Commercial Code (husband's authorisation for married women to exercise commercial activities) and sections 66, 80 and 105 of the same Code (prohibition on married or single women from entering the stock market or becoming stockbrokers or public auctioneers), was presented to Congress at the beginning of 1990. The Committee hopes that the Government will provide a copy of the above Decree once it has been enacted.

Egypt (ratification: 1960)

The Committee has taken note of the Government's report and of the information supplied in answer to its previous comments.

1. The Committee had noted earlier that Presidential Decision No. 214 of 1978 respecting the principles of the protection of the home front and social peace included a provision according to which "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 that two laws adopted under the Decision, namely, 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, contained similar provisions. Under section 2 of Act No. 33, "any person convicted, following an investigation by the Socialist Public Prosecutor, of advocating, or of complicity of advocating, doctrines which involve the rejection of 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 representative members on executive boards of public 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 rights and religious values of the people, is prohibited, for a period of six months to five years, "from being a candidate to, or occupying, posts of chairman or of member of steering committees or of boards of administration of societies or public bodies" and "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 of them on legal grounds.

The Committee notes from the Government's report that Presidential Decision No. 214 concerns any person likely to oppose or combat the divine religions but that at present there is none in the country who is so engaged. It is further stated that the relevant

provisions, while not applied in practice, are maintained in order to protect the divine religions and ensure the security of the State, as allowed by Article 4 of the Convention. The Government also recalls that article 40 of the National Constitution ensures for all citizens equality before the law.

As the Committee had pointed out in earlier comments, conformity should be ensured in the wording as well as in the application of the above-mentioned national provisions with Article 1(a) of the Convention, regarding any exclusion or preference based on religion. (The Committee requests the Government to refer in this respect to paragraphs 47 to 49 of its General Survey of 1988 on equality in employment and occupation.) The Committee further recalls that the expression of opinions or religious, philosophical or political beliefs is not in itself a sufficient base for 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 no violent methods are advocated or used (the Committee requests the Government to refer to paragraph 135 of the same General Survey).

The Committee once again draws the Government's attention to the need to re-examine all the national provisions in question in relation to the relevant provisions of the Convention. It requests the Government to make every effort to amend the above legislation in order to ensure that the principle of non-discrimination in employment and occupation laid down by the Convention is applied to all persons, regardless of their religious application or beliefs. The Committee asks the Government to report any measures taken to this end.

2. In earlier comments the Committee raised the question of section 18 of Act No. 148 of 1980 respecting the power of the press, being contrary to the principles of the Convention. Section 18 prohibits the publication, participation in the publication or the ownership of newspapers, to certain categories of persons (persons prohibited from exercising their political rights or from forming political parties, persons professing doctrines that reject divine laws, and persons convicted by the Court of moral values). The Committee had also noted that Act No. 33, mentioned above, imposed restrictions, enforced by disciplinary sanctions, on members of the journalists' trade unions, in respect, in particular, of 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 peasants".

The Committee points out that the legislative provisions in question are contrary to Article 1(a) of the Convention, to the extent that they give rise to discrimination based on political opinion and having the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation for the persons concerned. The Committee notes that the Government reiterates in its report its earlier statement according to which section 18 of Act No. 148 was to be repealed on the occasion of a revision of the press law and also indicates that Act No. 33 is under discussion by the competent services.

The Committee hopes that the Government will make every effort in order soon to bring the above-mentioned provisions into conformity

with the Convention in respect of Article 1(a). It requests the Government to indicate any progress made in this respect.

Germany (ratification: 1961)

I. Equality of opportunity and treatment
irrespective of political opinion

1. Further to its previous comments, the Committee notes with satisfaction the following developments:

(a) On 26 June 1990 the Land Government of Lower Saxony decided to revoke the decree against radicals and to discontinue systematic inquiry from the authority for the protection of the Constitution in regard to applicants for employment in the public service. It also decided to offer renewed opportunities of employment in the public service to persons who had previously been refused admission to such employment under the aforesaid provisions, to discontinue proceedings against officials or salaried employees in pursuance of those provisions that were still pending, and to offer reinstatement to persons against whom final court decisions of dismissal or demotion had already become effective. Following these measures, problems in the application of the Convention of the kind examined by the ILO Commission of Inquiry in its report of 1987 do not exist anymore or are in the course of being resolved in most of the Länder of the Federal Republic, namely: Berlin, Bremen, Hamburg, Hessen, Lower Saxony, North Rhine-Wesphalia, Saarland, Schleswig-Holstein.

(b) In July 1990, the President of the Federal Republic granted a pardon to Herbert Bastian (an official in the Federal Postal Service who had appeared as a witness before the Commission of Inquiry and whose dismissal had subsequently been ordered by the Federal Administrative Court, principally on account of his exercise of an elective mandate as a town councillor on behalf of the German Communist Party), enabling him to resume service as from 1 August 1990.

2. The Committee has also taken note with interest the judgements rendered by the Federal Labour Court on 28 September 1989 and 14 March 1990 in the cases of Heinrich-Udo Lammers and Thomas Weber. In the former case the Court held that the attempted termination of a contract of employment on account of the employee's political activities was not socially justified. In the latter, it held refusal of employment to be contrary to the constitutional guarantee of the right to equal access to the public service according to ability, qualifications and occupational performance. The Court distinguished between the duties incumbent upon officials and upon persons employed in the public service under a contract of employment and observed that, in considering the justification for exclusion from the public service on account of political activities of contractual employees, regard must be had to the duties to be discharged, the nature of the functions performed by the employing authority and the field of work in which the employee would be engaged. These judgements applied, in the case of persons employed in the public service on the basis of a labour contract, criteria corresponding to

those stated by the Commission of Inquiry in its recommendations with regard to persons in the public service generally.

3. The Committee notes that in cases concerning officials, the administrative courts, in contrast to the labour courts, still do not differentiate in the application of provisions on the duty of faithfulness, according to the nature of the functions performed. The Committee notes that, in August 1990, the Federal Constitutional Court, following earlier decisions to like effect noted by the Commission of Inquiry in paragraph 456 of its report, declined to accept for hearing, on the ground of insufficient prospects of success, a complaint arising out of the dismissal of a lifetime official on account of political activities ordered by the administrative courts of Lower Saxony.

4. The Committee would accordingly appreciate information on any measures which may be contemplated by the federal authorities and by the Länder of Baden-Württemberg, Bavaria and Rhineland-Palatinate, in response to the recommendations of the Commission of Inquiry, with a view to ensuring full compliance with the Convention.

II. Effective remedies in cases of sex discrimination

5. The Committee has noted the two judgements rendered by the Federal Labour Court on 14 May 1989 concerning compensation in cases of sex discrimination in respect of employment, the texts of which were communicated by the Government with its last report. Although in both cases there was found to have been unlawful discrimination, the Court held that, apart from recovery of any actual expenses incurred by the worker, compensation for immaterial damages might be awarded only where there was serious infringement of the worker's general rights as a human being. Accordingly, in one of the cases, no award of damages was made, whereas in the other the award was limited to one month's wages. It follows that in many cases of discrimination in employment on the ground of sex, the worker will not be able to obtain any compensation, and in others only nominal compensation may be obtainable. The Committee would, therefore, appreciate information on the further measures which it is proposed to take with a view to providing effective sanctions or remedies in cases of discrimination in employment on the ground of sex.

6. The Committee is raising other points in a request addressed directly to the Government.

Ghana (ratification: 1961)

1. In comments made since 1967, the Committee has noted that under section 32 of the Civil Service Act, 1960, the President may dismiss or remove any civil servant if he is satisfied that it is in the public interest to do so and that under regulation 60(1) of the Civil Service (Interim) Regulations 1960, there shall be no appeal against a decision of this sort which is taken or confirmed by the President. Accordingly, the Committee has requested that measures be taken, both as regards legal grounds for dismissal and regarding

channels of appeal so as to ensure that civil servants are not discriminated against on any of the grounds covered by the Convention. For many years, the Government has reiterated that the question of civil servants' right of appeal was being studied by the Public Services Commission and the Attorney-General's Office.

The Committee now notes the statement in the Government's most recent report that the Constitution is the supreme law of the country and that any other law found to be inconsistent with any provision of the Constitution shall, to the extent of the inconsistency, be void and of no effect. The Government also states that in view of the constitutional provision which safeguards the liberty of the individual, a dismissed civil servant may seek redress from the courts. The report indicates that there are cases relevant to this matter, notably those of Sallah vs. the Attorney-General 1970 (already referred to by the Government in the discussion on this matter by the Conference Committee in 1983) and Owusu Afriyie vs. State Hotels 1977. The former case concerned a civil servant (who was one of 560 dismissed public officers) whose dismissal was annulled by the court. In respect of the latter case, the report indicates only that the dismissed plaintiff sued in the High Court and won her case.

In the absence of copies of the decisions cited and of any indication as to the particular terms of the constitutional provision referred to by the Government, the Committee is unable to ascertain whether dismissed civil servants are guaranteed adequate channels of appeal. The Committee recalls, in this regard, that the 1979 Constitution (which was suspended by the National Defence Council (Establishment) Proclamation 1981) was formally abrogated by section 66(1) of the Provisional National Defence Council (Establishment) Proclamation (Supplementary and Consequential Provisions) Law. (PNDCL Law 42 of 1981.) However, even if a right of appeal were guaranteed under the Constitution, that cannot be considered to be sufficient in itself to guarantee equality of opportunity and treatment under the Convention. The problems often encountered in remedial procedures - such as the cost, the difficulties with the burden of proof, the fear of initiating proceedings alone and that of exposure to reprisals - may effectively deter many civil servants from pursuing this course. Indeed, the Committee considers it significant that apparently only one civil servant out of 560 dismissed public officials sought to bring an action before the courts. Accordingly, it is of paramount importance that the Government take steps to amend without delay section 32 of the Civil Service Act 1960 to ensure that civil servants not be subject to discrimination concerning their dismissal or removal from employment on the grounds of race, sex, religion, political opinion, national extraction or social origin. In addition, the Committee urges the Government to amend regulation 60(1) of the Civil Service (Interim) Regulations 1960 to guarantee civil servants the right of appeal in all cases of dismissal or removal from employment.

2. In its previous comments, the Committee had noted the Government's statement in its report that steps were being taken to reconstitute the "National Advisory Committee on Labour" to finalise examination of the Committee's outstanding comments. The Committee also recalled 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. The Committee notes that the Government has not provided any further information on this matter. Accordingly, the Committee recalls the obligations of the Government under Article 3(f) of the Convention to indicate in regular reports, the action taken in pursuance of a policy to promote equality and eliminate discrimination; and hopes that the Government will provide the details called for in a direct request which the Committee is again addressing to the Government.

Greece (ratification: 1984)

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

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.

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

Guinea (ratification: 1960)

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

The Committee notes with 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.

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

Hungary (ratification: 1961)

In its previous comments, the Committee had drawn attention to the lack of constitutional and legislative protection against the possibility of discrimination in employment and occupation based on political opinion, a ground included among those set out under Article 1, paragraph 1(a), of the Convention.

The Committee notes with satisfaction that article 70/A of the Constitution, as revised in October 1989, ensures for every person staying within its territories human and civil rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national and social origin, property, birth and other status. It further notes that article 70/A also provides for the punishment of any prejudicial discrimination of any kind on the aforementioned grounds and declares that regulations shall be adopted prohibiting unequal treatment.

The Committee also notes with satisfaction that by Act No. XLI of 24 November 1989, section 18 of the Labour Code has been amended to extend the prohibition of discrimination, inter alia, also to the ground of political opinion by providing that in the establishment of employment relations and in the determination of rights and obligations emanating therefrom, workers must not be discriminated against on grounds of sex, age, nationality, race, social origin, religion, political opinion and membership in their representative organisations.

The Committee is raising other points in a request addressed directly to the Government.

Islamic Republic of Iran (ratification: 1964)

1. The Committee has taken note of the discussion in the Conference Committee in 1990 and of the information provided by the Government in its report for the period ending 30 June 1990. 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/45/697 of 6 November 1990 and E/CN.4/1991/35 of 13 February 1991) and in the report on implementation of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief presented by the Special Rapporteur appointed by the Commission on Human Rights (UN document E/CN.4/1991/56 of 18 January 1991).

2. The Committee notes that the Government representative to the Conference Committee in 1990 stressed examples of recent positive developments, in particular that as a result of the 1989 directive issued by the Prime Minister concerning official government policy on minority groups, 500 of those concerned took part in university entrance examinations. In addition, the directive was brought to the attention of all relevant conciliation and arbitration bodies dealing with labour relations disputes. The Government finally pointed out that the first five-year development plan, which was already operational and which has been endorsed by legislative measures, aims at ensuring, as an overall policy, social justice and legal security, namely ensuring the equality of all persons before the law and the protection of legitimate individual and social rights. The plan also mentions further participation of women in social, cultural, educational and economic affairs. In addition, the Committee notes that the Government's report refers in particular to various provisions of the new Labour Law (section 6 on equality of rights; sections 75 to 84 on the employment of women and children; sections 107 and 108 on vocational training), the text of which has just been received and which will be examined, once translated, by the Committee at its next session. The Government's report also refers to the directive of the Prime Minister No. M/11/4462 of 1989 and to the Minister of Labour's Circular No. FM/9/2161 of 1989 which disseminates the directive. Lastly, the Government states that the right to social security is guaranteed to the whole population and Baha'is are beneficiaries of the 1976 Social Security Law on an equal basis without any restriction based on their belief.

3. The Committee refers to the above-mentioned reports presented to the United Nations bodies and to the questions raised therein of relevance to 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, and new revocations took place in 1989 and 1990;

- (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 although some recent refusals of admission have been reported, but they are generally still refused admission to universities;
- (e) several shops belonging to Baha'i shopkeepers have been closed and work permits have been refused or withdrawn.

4. The Committee refers to the Prime Minister's Directive No. M/11/4462, the terms of which it had noted with interest in 1990. It recalls that the directive forbids denying citizens, whatever their belief, their social and legal rights if they have not been recognised as spies by the competent authorities or if they have not been condemned to a sentence depriving them of their rights. The Committee again asks the Government to supply 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 in the directive to article 13 of the Constitution according to which Iranians belonging to the Zoroastrian, Christian and Jewish religions are the only recognised religious minorities.

5. The Committee would also appreciate information already requested in 1990 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 Directive No. M/11/4462 of 1989 on the position of persons not professing any faith.

7. 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.

8. 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.

9. The Committee recalls the Government's previous 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.

10. The Committee recalls 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 Muslims, 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 Muslim 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).

11. 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 refers to the Government's indications concerning vocational training and the further participation of women in various activities (see paragraph 2 above). It 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.

Iraq (ratification: 1970)

The Committee takes note of the decision of the Governing Body at its 248th Session (November 1990) to set up a committee to examine the representation made pursuant to article 24 of the ILO Constitution, alleging non-compliance by Iraq with a certain number of Conventions, including Convention No. 111.

In accordance with its customary practice, the Committee is suspending its examination of the application of the Convention pending the conclusions of the above-mentioned committee.

Mauritania (ratification: 1963)

The Committee has noted that the Governing Body adopted at its 249th Session (February-March 1991) the report of the committee set up for the examination of the representation made by the National Confederation of Workers of Senegal, under article 24 of the ILO Constitution, and concerning the application of several Conventions by Mauritania.

The Governing Body has asked the Government to supply in its reports on the Conventions concerned, to be submitted not later than 15 October 1991, information on the measures taken and on their results, with a view to giving effect to the recommendations of the Governing Body to enable these questions to be followed up by the Committee of Experts.

The Committee notes that the above recommendations concern questions relating to Conventions Nos. 111 and 122 (measures to determine the nationality of persons displaced from Mauritanian territory in 1989 and who claim Mauritanian nationality and measures towards reparation for the prejudice suffered by Mauritanian nationals who were displaced), to Convention No. 95 (measures for a final settlement of the wages due to the persons concerned) and to Convention No. 118 (measures to have established and ensure the payment of any benefits due to Mauritanian nationals who have left Mauritania).

The Committee trusts that the Government will supply full information on the above questions in its reports to be submitted this year on Conventions Nos. 95, 111, 118 and 122.

New Zealand (ratification: 1983)

In its previous observations under Conventions Nos. 100 and 111, the Committee noted that the Government had agreed in principle to the enactment of an Employment Equity Act which would incorporate the concepts of pay equity and of equal employment opportunity in the public and private sectors. The Committee notes that the Employment

Equity Act, 1990 came into force on 1 October 1990 but was repealed in December 1990. According to information communicated by the Government, action to repeal the legislation was taken because the Government did not consider that greater equity in employment opportunity would be achieved through the highly prescriptive and centralised procedures put into place by the Act. The Committee also notes the comments communicated by the New Zealand Employers' Federation prior to the repeal of the Act. The Federation stated that the legislation, which allowed for a comparison of jobs in different employing organisations with different employers involved and which provided for third-party decisions as to the wages subsequently payable, would inevitably have an inflationary outcome and result in job loss, thereby having an adverse effect on those it was intended to assist. The Federation also stated that, though it had been a long-time supporter and promoter of equal opportunity on a voluntary basis, it was most concerned that the kind of target setting envisaged under the legislation would lead to tokenism and appointments made on grounds other than merit.

The Committee notes that, following the repeal of the Employment Equity Act, the Government established a Working Party on Equity in Employment to evaluate equal employment opportunities initiatives and report to the Government on the most effective means of developing and implementing its equity in employment policy. The Working Party's report, which was submitted in January 1991, included recommendations in the areas of systemic barriers to, and programmes for equal employment opportunities, education and child care. The Working Party also discussed equal employment opportunities for Maori and Pacific Island peoples and for people with disabilities. Key recommendations concerned the proposed enactment of legislation requiring employers to develop, implement and monitor equal employment opportunities programmes; and the establishment of a Council for Equity in Employment funded jointly by the Government and the private sector. The Government says it is considering the recommendations of the Working Party prior to releasing details of its equity in employment policy.

The Committee hopes that the Government will adopt further measures concerning the policy on equality in employment, pursuant to the report of the above-mentioned Working Party, and requests the Government to furnish details concerning the implementation and results of such measures.

Norway (ratification: 1959)

The Committee notes the information supplied by the Government in reply to its previous comments regarding section 55 of the Worker Protection and Working Environment Act (No. 45/1977).

The Committee recalls that the Governing Body, in its conclusions adopted in March 1983 regarding a representation submitted by the Norwegian Federation of Trade Unions (LO) under article 24 of the ILO Constitution, has considered that section 55A is drafted in such a way that employers could question job applicants about their political, religious or cultural views where such views are not relevant to the

inherent requirements of a given job. The Governing Body 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 to supply information on the way in which the observance of the Convention is ensured in the application of section 55A of the Act.

In its earlier observations the Committee has 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 1966 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 held that a personnel policy of a religious institution for training social workers, which requires that all candidates for employment in its department of social works be asked about their position concerning the Christian faith, is not contrary to section 55A of the Worker Protection and Working Environment Act.

The Committee recalls 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 had stated in its report that this study was not yet completed. The Government also indicated that it had received no further information that section 55A has been applied in such a way as to contradict the Convention and since 1987, no case had been brought to trial on the basis of section 55A. The Committee also recalls that a letter from the LO stated that a committee was established in June 1989 to consider whether changes have to be made to the Act.

In this respect the Committee notes from the Government's report that a possible revision of section 55A of the Worker Protection and Working Environment Act will be considered by a Government-appointed tripartite committee currently charged with discussing a large-scale revision of the above-mentioned Act and that the outcome of the work is expected to be available at the end of 1991.

The Committee requests the Government to supply information on the results of the study requested by the Storting, on the work of the above-mentioned tripartite committee and to continue to furnish information concerning the application in practice of section 55A of the Act.

The Committee also expresses the hope that through the revision to be considered, or other appropriate measures, section 55A of the Act will be worded, 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 is addressing directly to the Government a request concerning other points.

Pakistan (ratification: 1961)

The Committee notes the discussion in the Conference Committee in 1989. In the absence of a report and of new information supplied by the Government, the Committee must repeat its previous observation which read as follows:

In previous observations, the Committee referred to a resolution of the Subcommission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights, which expressed grave concern that persons charged with and arrested for violations of the Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984 (Ordinance No. XX of 1984) and also the affected groups as a whole had been subjected to discrimination in employment and education. The Committee requested the Government to review this matter and take the measures necessary to ensure the observance of the Convention.

The Committee notes the statement of the Government in its report that there is full religious freedom for all the minorities including qadianis, that the interests of minorities are fully safeguarded, that all minorities including qadianis have the right to profess, practise and propagate their religion, that they have also the right to establish and maintain religious institutions, and that it is hence not true that in Pakistan qadianis or members of any other minority are being subjected to discrimination based on faith or religion. The Committee also notes the observation supplied by the Pakistan National Federation of Trade Unions stating that the law does not debar the qadianis from propagating their faith as "qadianis".

The Committee takes note of these indications. It must, however, point out that under the provisions of Ordinance No. XX (section 3(2), in particular) members of the religious groups concerned may be sentenced to imprisonment, inter alia, for propagating their faith. The Committee, in its previous observation, pointed out that such punishment has a direct bearing on their opportunities regarding employment. It wishes to refer, in this context, to the allegation transmitted by a Special Rapporteur appointed in accordance with resolution 1986/20 of the United Nations Commission on Human Rights to the Government of Pakistan that a first-class technician in the air force has been dismissed from his function for belonging to the Ahmadi faith (E/CN.4/1989/44, p. 29). The Committee also noted the written statement submitted by the Anti-Slavery Society for Protection of Human Rights to the Commission on Human Rights (E/CN.4/1987/NGO/67, 6 March 1987), in which it was alleged, among other things, that the issue of a passport is refused to a Muslim in Pakistan if he does not declare in writing that the founder of the Ahmadiyya movement in Islam was a liar and an impostor. Such measures would clearly deprive persons of the freedom to choose an employment abroad and result in discrimination in access to employment on the ground of religion.

With a view to ensuring the observance of the Convention, the Committee again expresses the hope that the Ordinance and any

administrative measures affecting members of religious groups in employment will be reconsidered and that the necessary measures will be taken in this regard to bring legislation and practice into conformity with the Convention. Pending amendment of the legislation, the Committee requests the Government to supply detailed information on the status of persons covered by the Ordinance in their employment and occupation, including their freedom to seek employment abroad on the same footing as other nationals.

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

Romania (ratification: 1973)

The Committee recalls the decision of 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 of the ILO, that Romania is not observing 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 the Commission of Inquiry.

Rwanda (ratification: 1981)

The Committee takes note of the Government's report.

1. With reference to its previous comments, the Committee notes with satisfaction Act No. 42/1988 of 27 October 1988 setting forth the Preliminary Title and Book One of the Civil Code, section 458 of which repeals former section 122 (authorisation of the husband for all acts for which she contracts to provide a personal service) which was the subject of the Committee's comments.

2. The Committee notes that the Government's report does not reply to the other questions raised in its previous comments which read as follows:

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.

The Committee hopes that the Government will do its utmost to take the necessary measures in the very near future.

Saudi Arabia (ratification: 1978)

1. The Committee takes note of the information supplied by the Government in reply to its previous direct request and, in particular, the information relating to the application of Islamic law (Sharia). In this respect, the Government repeats that the Sharia is the country's basic law and that its principles serve as references when there are gaps in the ordinary legislation, which should be in conformity with the Sharia or will be deemed null and void. In addition, the Government states that the Sharia preaches principles of justice and equality and its precepts must be respected by the authorities, collectivities and individuals. The Government states that because of this any violation of the principle of equality of opportunity and treatment in employment for any of the reasons set out in Article 1, paragraph (a) of the Convention would be a violation of the Sharia, which is unthinkable.

The Committee takes note of this statement. Referring to its previous comments, it again requests the Government to supply information on the measures taken in practice to give effect to Islamic law and to promote, in accordance with Articles 2 and 3 of the Convention, equality of opportunity and treatment in employment and occupation so as to eliminate any discrimination based on the reasons set out in Article 1(a).

2. The Committee requests the Government to indicate the measures taken to promote, by an appropriate national policy, equality between men and women in employment in view of the terms of section 160 of the Labour Code according to which "in no case may men and women commingle in the place of employment or in the accessory facilities or other appurtenances thereto". Please provide statistics on the respective number of men and women in the active population and on their distribution by branch of activities and occupation.

3. As regards the measures taken to promote equality in the field of vocational training, the Committee recalls the information given previously by the Government to the effect that training centres created by the Government are open to all citizens without distinction, in conformity with the Convention, with the requirements of Islamic law and with national customs; this has not impeded the establishment of private training centres involved in the training of women in areas such as nursing, stenography and weaving. The Committee again requests the Government to indicate the number of women who have had access to government-created training centres and their percentage compared with men, as well as the employment for which training was given.

4. As for access to employment and equal working conditions, the Committee recalls the information provided previously by the

Government according to which no ministerial order has been adopted to determine occupations or activities forbidden because of their dangerous nature to women, young persons and children and that, because of this fact, the ban remains limited to those jobs listed in section 160 of the Labour Code. The Committee notes that section 160 gives an open-ended list of hazardous operations and harmful industries (such as "power-operated machinery, mines, quarries") and could also be open to usages not in conformity with the aim of the ban provided for in the Labour Code, or with the principle of non-discrimination set out in the Convention. The Committee requests the Government to keep it informed of any measure taken under this provision of the Labour Code.

5. The Committee repeats its previous requests relating to the application of Royal Decree No. 49 of 26 June 1977 (10 Rajab 1397H) on the public service. The Committee would like to have more detailed information on the classification of posts and the objective evaluation of tasks relating to the different categories of public servants set out in sections 2 and 3 of this statute. In addition, the Committee requests the Government to indicate the number of women employed in the public service and their percentage compared with the number of men, and the opportunities for designation and promotion to higher posts (after grade 13, for example) that are available to them.

Senegal (ratification: 1967)

With reference to its previous comments, the Committee notes with satisfaction that Act No. 89-01 of 17 January 1989 which amends the Family Code by repealing former section 154 (husband's opposition to his wife's exercising an occupation).

The Committee raises other questions in a request addressed directly to the Government.

Sierra Leone (ratification: 1966)

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:

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.

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

Spain (ratification: 1967)

The Committee notes the information supplied by the Government in its report. It also notes the comments submitted by the General Union of Workers (UGT), which the Government transmitted with its report without comments of its own.

1. With reference to its previous observation, the Committee also notes the detailed information supplied by the Government concerning the position of women in the labour market. It notes, in particular, the statistics on the development of the active population by sex and age group for the period 1985-89, in which a steep increase can be observed (23.6 per cent) in the number of active women and the activity rate of women. The Government adds that the spectacular increase in the number of active women explains the decrease in unemployment among women. The Committee requests the Government to continue supplying information on all progress achieved as regards the situation of women in the labour market.

2. The Committee nevertheless notes the concern once again expressed by the UGT at the persistence of discrimination against women. The UGT quotes the example of enterprises which pay women lower wages than those of men in the same occupational category, which only employ women in lower categories, reject applications for jobs from women, or which dismiss women workers when they become pregnant or when they denounce the sexual harassment of which they are the victims. The Committee notes that, in one of the cases quoted by the UGT, the labour inspectorate intervened. It requests the Government to indicate any measures that have been taken to strengthen labour

inspection activities in order to apply the legal provisions prohibiting any discrimination in employment with regard to women.

3. With regard to Coloured workers and workers of Muslim origin in the Catalan region of Maresme and in Ceuta and Melilla which, according to the comments made by the Trade Union Confederation of Workers' Commissions in 1989, were subject to lower conditions of employment than those of Spanish workers, the Committee notes the information supplied by the Government on the legislation respecting the employment of foreign workers and the requirements for the acquisition of Spanish nationality. It would be grateful if the Government would indicate the measures that have been taken to ensure - for example, by means of inspection visits - that, in practice, Coloured workers and those of Muslim origin who have acquired Spanish nationality are not subject to any discrimination in employment, in accordance with the Convention. With regard to the treatment of foreign workers, the Committee refers to its comments concerning the application of the Migration for Employment Convention (Revised), 1949 (No. 97).

Sweden (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:

1. 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.

2. 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.

3. Further points are being raised 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.

Switzerland (ratification: 1961)

The Committee notes the Government's report and the detailed information that it contains in reply to its previous comments, as well as the documents that are attached.

1. With regard to the Federal Office for Equality between Men and Women, which was set up by the Ordinance of 24 February 1988, the Committee notes that, since it commenced its work on 1 January 1989, it has directed its activities towards many fields including in particular the promotion of women in the world of work. In this connection, the Committee notes the publication of a vade-mecum on equality between men and women in the world of work entitled "The promotion of women, a promise to be kept", and the commencement of various inquiries and studies that are intended to identify the various types of difficulties which impede equality in employment. In particular, the Committee notes with interest that the Office for Equality between Men and Women has undertaken a study in Geneva on sexual harassment at the workplace. The Committee requests the Government to continue to keep it informed of activities related to the promotion of equality of women in employment, the results of current inquiries and, where appropriate, the measures that are envisaged or have been adopted to overcome difficulties.

2. The Committee notes with interest that, after the Cantons of Jura and Geneva, equality offices have been established in the Cantons of St. Gallen, Basel-country, Zurich, Berne and the town of Winterthur and that the trend is for an increase in this movement since other Cantons and towns have announced their intention of doing the same. The Committee requests the Government to describe the practical activities and the results obtained by these offices as regards the promotion of equality of opportunity and treatment of women in employment.

3. With reference to the legislative programme for equality between men and women, the Committee notes with interest that draft legislation has been prepared and is currently undergoing the process of consultation at various levels. This draft text includes a prohibition of discrimination on grounds of sex as regards conditions of work as well as measures to facilitate legislation concerning the right to equal remuneration and to strengthen the position and responsibilities of the Federal Office for Equality between Men and Women. It requests the Government to keep it informed of any development in this respect and, in particular, to supply the text of this new legislation when it is adopted.

The Committee requests the Government to supply information on the implementation of the programme to promote equality between men and women in respect of employment, both as regards legislative changes (such as the amendments proposed by the legislative programme of 26 February 1986 on equality of rights between men and women) and as regards practical achievements in the world of work.

4. The Committee is addressing a request directly to the Government on other aspects of the application of the Convention.

Turkey (ratification: 1967)

The Committee takes note of the discussions in the Conference Committee in 1990, of the Government's report for the period ending 30 June 1990, which was received on 7 February 1991, of the attached documentation (including the Security Investigation Regulation of 8

March 1990) and the appended comments dated 20 August 1990 received from the Turkish Confederation of Employers' Associations, indicating that the application of the Convention had not posed any problems in the private sector and that the application of Martial Law Act No. 1402 was no longer an issue in the employment practices of the public service. The Committee has also examined the translated texts of the documentation annexed to the Government's previous report received in February 1990 (including the Council of State Decision of 7 December 1989 and legislation and court decisions concerning disciplinary action against public servants).

1. Position of public servants dismissed or transferred between 1980 and 1987 during the period of martial law

(i) Following its examination of the 7 December 1989 Council of State ruling, the Committee notes with satisfaction the conclusion of the ruling to the effect that:

- civil servants, other public employees and workers in public services whose employments were terminated on demand of martial law commanders, pursuant to section 2 of Act No. 1402, will have to be reinstated to their services by the institutions concerned after the state of martial law is lifted in the region where their employments were terminated on the condition that they have not lost the qualifications required at the time of their first appointment, and
- that jurisprudence is to be unified in the same direction.

The Committee further notes with interest, from the opinion of the Attorney General of the Council of State, that the decisions of Martial Law Commanders on dismissals and transfers in employment under Act No. 1402 were considered not to be in compliance with Article 4 of Convention No. 111 because the persons concerned did not have the right of appeal to administrative courts; that the authority invested in the Martial Law Commanders by Act No. 1402 was capable of giving rise to practices which are based on subjective assessments, arbitrary and not in the public interest because the reasons for using such authority were not clearly defined in the law, and no provisions were made to protect public employees; and, further, that the reason "their service is not useful" had nothing to do with the constitutional reasons necessitating the declaration of martial law.

The Committee notes the convergence of these views with those expressed in its previous comments. It earnestly hopes that the ruling will be fully applied to the benefit of all persons whose employment has been affected by decisions taken pursuant to Act No. 1402 and also that the contents of the ruling will be taken into consideration in the amendments to the Martial Law Act discussed below in point 2.

(ii) In its previous comment, the Committee requested the Government to supply statistics of reinstatement or return of dismissed or transferred public servants, and information on measures towards compensation for loss of earnings and other benefits during the period of their exclusion from employment or transfer.

The Committee notes with interest from the Government's report that, out of 9,400 public servants who had their employment affected

under martial law, 4,530 had been dismissed, of which 4,097 have been reinstated to the public service and 75 have not requested reinstatement. The Government also indicates that reinstatement was denied to 358 public servants. The Committee notes from the Government's report that the legal impediments preventing reinstatement are those set out in sections 48 and 98 of the Civil Servants Act of 657 concerning requirements for appointment to service and reasons for termination. The Committee requests the Government to indicate the meaning of the requirement "not to be restricted from civic rights" contained in section 48 and also, in regard to the 358 public servants denied reinstatement, to provide information on their former positions, the specific grounds on which they were denied reinstatement, and whether they can appeal such decisions.

(iii) The Committee previously noted the 11 December 1989 circular issued by the Higher Education Board to the 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 notes the statement by the Workers' member of Turkey in the 1990 Conference Committee indicating that the circular had not had any effect because there were no vacancies and the persons concerned would have to wait until vacancies arose. It also notes that the specific cases of inconsistent judgements re-examined under the Council of State Decision were largely based on claims for reinstatement by university personnel.

The Committee requests the Government to indicate the measures taken to implement the Council of State Ruling, by means of the circular, in universities in order to reinstate those persons dismissed, pursuant to Act No. 1402 during martial law, in particular whether any applications for the creation of additional posts had been submitted or approved by the Board in cases where no vacancies existed to meet requests for reinstatement. The Committee further requests the Government to provide statistical information on the number of university faculty members who have been reinstated and the number whose requests for reinstatement have been denied along with the basis for that denial.

(iv) Concerning those persons transferred to other regions during martial law, the Committee notes from the Government's report that the Council of State ruling removed the obstacles preventing these persons from returning to their place of origin. The Committee again requests the Government to provide, in respect of the 4,870 persons who had been transferred, specific information and statistics on the number of persons who have returned to their previous regions and positions.

(v) With regard to the compensation for the persons whom employment was affected by decisions pursuant to Act No. 1402 during the period of martial law, the Government states in its report that all public servants who have applied for reinstatement have the right to request through the competent courts of law compensation for loss of earnings and other benefits.

The Committee notes this information. It requests the Government to provide details on the number of persons - not only those having applied for reinstatement, but all those affected by decisions under

Act No. 1402 - who have filed for compensation for losses incurred during the period of their exclusion from employment or transfer and the number who have received judgements in their favour as well as information on the enforcement of such judgements.

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 Government's report, the Minister for Labour and Social Security has for the second time, in January 1991, dispatched a written communication to the Chairman of the Justice Committee of the Grand National Assembly calling attention to the Committee of Experts' views on the proposed bill and has also requested co-operation from the committee members in promoting the views of the Committee in the process of amending the Act. The Government previously indicated that 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 recalls, 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 again points out that the provision of a right of appeal would not be sufficient to meet the requirements of Article 4 of the Convention unless the measures intended to safeguard the security of the State were sufficiently defined and delimited so as not to lead to discrimination on the basis, inter alia, of political opinion.

The Committee reiterates its firm hope that the above-mentioned considerations, which it has found to be reflected in the opinion of the Attorney General of the Council of State, 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 appropriate amendment of the Martial Law Act.

3. Measures taken on the basis of
security investigations

The Committee has taken note of the Security Investigation Regulation adopted by Resolution No. 90/245 of the Council of Ministers on 8 March 1990 replacing the former Regulation on Security Investigations which had been held to be invalid by a recent decision of the Council of State.

The Committee notes the broad scope of the Security Investigation Regulation of 1990. Under sections 1 and 2, security investigation is to be carried out not only for persons to be recruited or transferred to posts involving access to classified documents and high security areas, but also for personnel to be employed in ministries and other

public institutions and organisations. Depending on the functions, institutions or categories of persons concerned, investigation may consist in "archive research" from existing files to be carried out by the National Intelligence Organisation, the General Directorate of Security or by local civil administration authorities, or may consist also in "security investigations" from existing files and on-the-spot observations to be carried out by the General Directorate of Security (section 3E and F). The personnel to be subjected to archive research, under section 5 of the Regulation, include most personnel working in the administration and public institutions and associations; magistrates and public prosecutors; university rectors, deans and faculty members; as well as employers of state enterprises and banks, and also students wishing to study abroad. Security investigations, under sections 7, 8 and 9 are required, *inter alia*, for magistrates and public prosecutors, inspectors, on initial appointment, promotion or change of institutions, and are to be renewed periodically or whenever necessary. According to the definitions given in section 3E and F of the Regulation, "archive research" and "security investigation" concern the determination (and appraisal) of whether or not a person is wanted by the security forces or if there is any restriction or report of the security forces or intelligence unit against that person.

The Committee notes that matters to be covered by security investigation include ideological and subversive activities and relations with foreigners (sections 3F, J and 10C and E of the Regulation); that subversive activities include, *inter alia*, engaging in activities or having been a member or having entertained close relations with a member of any local or foreign association or bodies engaged in activities seeking, *inter alia*, to destroy the national integrity of the State, or basic rights and liberties; to establish one-person or one-party rule of the State or to cause the dominance of one social class; and also behaviour contrary to Atatürk's principles and revolutions.

The Committee also notes that, pursuant to section 15 of the Regulation, an Appraisal Commission shall be set up to assess, on the basis of the findings of the security investigation and archive research, if the person is to be employed as a civil servant, or to be transferred to distance him from restricted areas. It further notes that no right to appeal the Appraisal Commission's decision is set out in the Regulation.

The Committee observes that the broad terms of the definitions given in the Regulation of "archive research" and "security investigation", as well as of subversive activities, would not appear to lay down sufficiently precise criteria upon which the decision whether or not to employ or transfer a person is to be based in order to ensure that there is no discrimination on the ground of political opinion.

The Committee wishes to draw the attention of the Government to indications given in paragraphs 135 and 136 of its 1988 General Survey on Equality in Employment and Occupation: (i) that the protection afforded by the Convention is not limited to differences of opinion within the framework of established principles or institutions, provided that no violent methods are used; and (ii) 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 concerned may have on the actual performance of the job, tasks or occupation of the person concerned.

The Committee recalls that 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 Regulation on security investigations to collect political and other subjective information, which was taken into account in employment decisions including new appointments, transfers and promotions.

The Committee requests the Government to indicate the extent to which security investigation reports are prepared and used in employment and other relevant decisions and to indicate the measures taken to ensure that rejection or transfer pursuant to the application of the Regulation is not based on political opinion or on any other ground which would constitute discrimination under the Convention.

The Committee requests the Government to indicate whether persons affected by decisions taken on the basis of security investigation have a right to appeal in accordance with Article 4 of the Convention.

Ukrainian SSR (ratification: 1961)

The Committee has noted the information supplied by the Government in answer to its previous direct request. With respect to the information supplied on the legislation of the USSR, the Committee refers to its comments concerning the USSR. With respect to the information supplied on the legislation of the Ukraine, the Committee wishes to make the following comments:

1. The Committee notes with interest the adoption of the Act of 24 October 1990 of the Supreme Soviet of the Ukrainian SSR which repeals article 6 of the Constitution of the Ukrainian SSR regarding the leading role of the Communist Party of the Soviet Union in the state and communal systems and amends article 7 of the Constitution to provide for political parties and the communal organisations and movements to participate, through the intermediary of their representatives elected to the Soviets of Peoples' Deputies, and in other ways, in the drafting and implementation of the Republic's policy and in the administration of state and communal affairs. It also notes that in the context of perestroika, a number of political conditions contained in basic legislation still in force, at both Union and Republic level, for the protection and certification of leading scientific and teaching personnel are the subject of substantial changes and classifications consistent with the provisions of Convention No. 111, and that in the Ukrainian Bill concerning higher education which is in preparation, emphasis is only put on the professional qualifications and moral qualities of candidates. The Committee hopes that in its next report the Government will be able to indicate the steps which have been taken to delete, from the Ukrainian laws and legislation applicable to the certification and selection of scientific and teaching personnel and of employees in all sectors of

the economy, any requirements based on ideological or political criteria, in accordance with the Convention.

2. The Committee notes with interest that a new draft Constitution of the Ukraine is being prepared, which will consolidate the de facto equality of rights of citizens, regardless of their political convictions. The Committee therefore hopes that the new draft Constitution will expressly provide for equality in employment and occupation based on all the grounds, including political opinion, mentioned in Article 1, paragraph 1(a), of the Convention.

3. The Committee notes that pursuant to the Order on the Introduction into Force of the Fundamental Principles Law of the USSR and Union Republics on Employment of Population of USSR of 15 January 1991, the Republics are to adapt their legislation to the provisions of the Fundamental Principles Law. It would be grateful if the Government would provide information on the measures taken or contemplated to adapt the Ukrainian legislation accordingly. In this connection, the Committee recalls that section 16 of the Labour Code of the Ukrainian SSR which provides for equality before the law without distinction based on particular grounds does not refer to political opinion, while section 4 of the Fundamental Principles Law, concerning equality of opportunity, also covers "political convictions".

In this connection, the Committee also notes the Government's statement in its report that review of basic legislation is taking place in accordance with the policy adopted in the Republic of carrying out radical socio-economic and political changes, and that draft legislation respecting regulation of labour relations during the transition to a market economy and employment of the population of the Ukrainian SSR, inter alia, have been prepared. The Committee hopes the preparation of new legislation will take place in light of the requirements of Convention No. 111 and that due consideration will be given to the points raised by the Committee in previous comments. It requests the Government to keep it informed of the progress made in this regard and to supply copies of new legislation upon adoption.

4. The Committee is raising other points in a request addressed directly to the Government.

USSR (ratification: 1961)

In its previous comments, the Committee had drawn attention to the ideological and political qualifications required for filling various positions in teaching and other sectors of the economy and for obtaining academic degrees and titles, and to the role played by the Communist Party in their implementation. It had observed that the provisions in question made it possible for equality of opportunity and treatment in employment and occupation to be impaired by distinctions based on political opinions.

1. The Committee notes with satisfaction, from the information provided by the Government in its last report, that the Constitution of the USSR, as amended by the Law on Presidency of 14 March 1990, no longer makes reference to the "leading role of the Communist Party of the Soviet Union" and that its amended Article 6 puts the Communist

Party on an equal footing with other political parties, trade unions, youth and other social organisations and mass movements in the formulation of the policy of the Soviet State and in the administration of state and social affairs. The Committee also notes with satisfaction the abrogation of the Act of the USSR of 30 June 1987 on state enterprises which contained provisions requiring the Party organisation of an enterprise to guide the work of the organisation, to select, train and place staff, and the steady raising of the political level of the workforce and the executive staff to possess a high degree of political qualities, in addition to business skills and moral qualities. The Act of the USSR on Enterprises in the USSR of 4 June 1990 no longer contains any provisions which specifically provide for the Party or any other political organisation to be involved in decisions affecting the selection and evaluation of workers relating to their employment.

2. The Committee also notes with satisfaction that Decree No. 425 of 15 May 1973 on the procedure for filling positions in the professoral and teaching staff of higher educational establishments; Decree No. 273 of 16 April 1974 on the attestation of teachers of general education schools; the methodological instructions, for the verification of the quality of basic types of instructions at higher educational institutions of the USSR, approved by the State Inspectorate of Higher Educational Institutions, of 2 October 1978; and Decree No. 1067 of 29 November 1975 concerning the procedure for awarding academic degrees and academic titles were repealed and have been replaced by new regulations which no longer impose ideological or political requirements for the selection of teaching staff in educational establishments and for the awarding of academic degrees and titles, in accordance with the Convention.

3. The Committee notes that the Fundamental Principles Law of the USSR and Union Republics on Employment of Population of USSR was adopted on 15 January 1991 and communicated to the Office the first week of February 1991. The Committee will be able to examine it in detail only when a translation of the full text is available. However, the Committee can already note with satisfaction that Section 4 of this law provides that state policy in the field of employment shall be based on the provision of equal opportunities to all citizens irrespective of race, sex, attitude to religion, age, political conviction, nationality and social status in the realisation their right to work and free choice of employment, thus covering grounds of discrimination listed in Article 1, paragraph 1(a), of the Convention, including political opinion.

4. The Committee further notes that, in accordance with the Order on the introduction into force of the above-mentioned legislation, all existing legislation, decrees, legislation or other measures are to be reviewed and brought into conformity with the Fundamental Principles Law by 1 June 1991. It hopes that this review will also be made in light of the requirements of Convention No. 111 and that due consideration will be given to the points raised by the Committee in previous comments. The Committee requests the Government to indicate the results of this review and to supply copies of all relevant revised texts with its next report.

5. The Committee is raising other points in a request addressed directly to the Government.

Yugoslavia (ratification: 1961)

The Committee notes the comments communicated by the Union of Independent Trade Unions of Kosova on 5 February 1991. According to this communication, discriminatory measures have been taken against persons of Albanian extraction in matters of employment and occupation.

The communication of the Union of Independent Trade Unions of Kosova has been transmitted to the Government for its comments. The Committee will examine this matter at its next session, together with other questions raised in its previous comments concerning the application 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: Afghanistan, Angola, Antigua and Barbuda, Argentina, Bangladesh, Barbados, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chad, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Italy, Jamaica, Jordan, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Peru, Rwanda, Saint Lucia, San Marino, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukrainian SSR, USSR, Republic of Yemen.

Convention No. 112: Minimum Age (Fishermen), 1959

Liberia (ratification: 1960)

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

Article 2, paragraph 1, of the Convention. With reference to its previous observations, the Committee notes that the Government again refers in its report to the draft Labour Law, which contains a provision intended to give effect to this Article of the Convention. The Committee recalls that the Government had also communicated a draft decree containing a provision to the same effect. It trusts that a suitable text

will shortly be adopted and that the Government will communicate a copy.

Convention No. 113: Medical Examination (Fishermen), 1959

Liberia (ratification: 1960)

In its previous comments, the Committee noted from the Government's report that the proposed new Labour Law and the draft Decree, to which it had been referring in its reports for a number of years, had not yet been adopted. It trusts that these texts will be adopted in the near future and that they will give effect to Article 2 of the Convention (requirement of a physical fitness certificate for employment on a fishing vessel), Article 3 (nature of the medical examination), Article 4 (period of validity of certificates) and Article 5 (possibility of a further medical examination), and that the Government will provide a copy of the provisions adopted.

Tunisia (ratification: 1963)

Referring to its previous comments on 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 takes note of the recent information provided by the Government to the effect that the draft legislation to give effect to the above provisions has been submitted for approval. The Committee hopes that the Government will shortly be able to report that it has been adopted. The Committee also hopes that the Government will, in its next report, reply to all the questions of the Report Form approved by the Governing Body.

Convention No. 114: Fishermen's Articles of Agreement, 1959

Cyprus (ratification: 1966)

With reference to its previous comments concerning the absence from national legislation of provisions to give effect to the Convention, the Committee is bound to note from the Government's report that the drafting of the legislative provisions to which it referred in its previous reports has not yet been completed. The Committee trusts that the Government will soon be able to report their adoption.

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

Liberia (ratification: 1960)

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

Further to its previous comments, the Committee notes from the Government's report that the proposed new Labour Law to which it has been referring for a number of years and which is to give effect to the Convention, has not yet been adopted. It trusts that this law will be adopted in the near future, that it will give effect to the Convention and that the Government will provide a copy of it.

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

* * *

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

Convention No. 115: Radiation Protection, 1960General observation

Under Article 3, paragraph 1, of the Convention, all appropriate steps shall be taken to ensure effective protection of workers "in the light of knowledge available at the time". Among the protective measures so to be taken, Article 6, paragraph 1, provides for the fixing, for various categories of workers, of "maximum permissible doses of ionising radiations which may be received from sources external to or internal to the body and maximum permissible amounts of radioactive substances which can be taken into the body", and paragraph 2 specifies that "such maximum permissible doses and amounts shall be kept under constant review in the light of current knowledge". In assessing compliance with these requirements, the Committee has frequently referred to current knowledge as embodied in the 1977 recommendations of the International Commission on Radiological Protection (ICRP) and other international reference sources based on the same recommendations. Developments in the last few years have induced the ICRP to prepare a completely new set of recommendations, inter alia, to take account of new biological information. These recommendations were about to be issued at the time of the Committee's 1991 Session. In the circumstances, the Committee has deferred commenting on the application of the Convention.

* * *

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

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

Requests regarding certain points are being addressed directly to the following States: Bolivia, Brazil, Central African Republic, Ghana, Malta, Panama, Portugal, Romania, Sudan, Tunisia, Venezuela, Zaire.

Convention No. 118: Equality of Treatment (Social Security), 1962Central African Republic (ratification: 1964)

The Committee notes with regret that, for the third consecutive year, 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 Committee hopes that the Government will make every effort to take the necessary action in the very near future.

France (ratification: 1974)

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

1. (a) Article 3, paragraph 1, of the Convention, branch (d) (invalidity benefit). In its previous comments, the Committee drew the Government's attention to the need to ensure that the supplementary allowance of the National Solidarity Fund FNS) (section L.815-2 of the Social Security Code) is provided to nationals of all the member States that are bound by the Convention and not only to French nationals and the nationals of countries that have signed an international reciprocity agreement with France (as provided in section L.815-5 of the Code).

In its reply, the Government indicates once again that the above allowance is not a social security benefit, but an assistance-type benefit. It adds that the FNS allowance, in contrast with social security benefits, is recoverable from the beneficiary's personal estate in the same way as allowances that are paid as social assistance. According to the Government, this feature marks the difference in French law between social security benefits and assistance benefits. In the case of assistance benefits, national solidarity only temporarily replaces family solidarity, the basis of which is to assist family members in cases of need. The Government also considers that the fact that this allowance is payable as a legally protected right does not mean that it is a social security benefit. Even the right to social assistance is "legally protected", except for some marginal discretionary or isolated allowances.

The Committee notes this information. It is bound to refer to its previous comments in which it emphasised that, in accordance with Article 1, paragraph (b), of the Convention, the term "benefits" refers to "all benefits, grants and pensions, including any supplements". As confirmed by the preparatory work for the Convention, this term must therefore be taken in its broadest meaning (in this connection, see ILC, 46th Session, Geneva, 1962, Report V(1), p. 24). The Committee also points out that the FNS supplementary allowance is payable to beneficiaries as of right and is not dependent of any discretionary assessment of their needs, which is a characteristic of an assistance benefit. In this connection, the possibility of recovering the amount of the supplementary allowance in certain cases from the beneficiary's personal estate cannot be considered to be a determining factor since it is not a consequence of an assessment of resources.

The Committee, however, notes with interest the Government's statement that it is examining the possibility of applying equality of treatment as regards the award of the FNS allowance on French territory to foreigners who, although not covered by European Community regulations or bilateral reciprocity agreements in this connection, satisfy certain requirements regarding length of residence on the territory. Ministerial consultations have been commenced on this question, although their outcome is not yet known. In this context, the Committee also notes with interest the ruling of the Constitutional Council, No. 89-269DC of 22 January 1990, which declares unconstitutional section 24 of the Act containing various

provisions respecting social security and health, which extended entitlement to the supplementary allowance to nationals of the European Communities, while maintaining the requirement of a reciprocity agreement for nationals of other States. In its preamble to the ruling, the Constitutional Council states that the exclusion of foreigners who regularly reside in France from entitlement to the supplementary allowance, in cases where they cannot avail themselves of international undertakings or regulations in this respect, is in violation of the constitutional principle of equality.

The Committee hopes that the inter-ministerial consultations that have commenced to this effect, will result in the extension in both law and practice of entitlement to the supplementary allowance of FNS to the nationals of all member States which are bound by the Convention and not only to the nationals of countries that have signed an international reciprocity agreement, in accordance with Article 3, paragraph 1, of the Convention. Furthermore, the Committee points out that by virtue of Article 4, paragraph 2, the Convention only permits restrictions on equality of treatment with reference to length of residence within certain limits and only for benefits of the type set out in paragraph 6(a) of Article 2 (that is, benefits other than those the grant of which depends either on direct financial participation by the persons protected or their employer, or on a qualifying period of occupational activity).

(b) With reference to its previous comments concerning the allowance for disabled adults instituted by Act No. 75-534 of 30 June 1975, the Committee notes with interest that the Government is continuing its examination of the possibility of providing this allowance to persons of foreign nationality other than nationals of the EEC (or members of their family) and Swedish nationals (who already benefit from it within the framework of the bilateral agreement concluded with Sweden). It hopes that this examination will result in the full application of the Convention on this point by ensuring the grant of the above allowance to nationals, who are resident in France, of all States that have accepted the obligations of the Convention (subject to the possibility open to the Government of availing itself of Article 4, paragraph 2(b), making the grant of the allowance dependent on a period of residence of up to five years).

(c) Article 4, paragraph 1, branch (d) (invalidity benefit) and branch (f) (survivors' benefit). The Committee refers to its previous comments concerning the condition of residence placed upon the payment of social insurance benefits (in this case, invalidity and survivors' benefits) to foreign nationals insured under the scheme, whose country of origin has not concluded a social security agreement with France specifically guaranteeing the maintenance of these benefits. In its report, which does not contain information concerning invalidity pensions as such, the Government indicates that the condition of residence is not required for pensions for disabled widows and widowers, although it does not indicate the legal basis for this statement. It also confirms that a residence requirement is maintained in certain cases for widows' pensions for foreign nationals who cannot avail themselves of EEC regulations or bilateral reciprocity instruments, and also as regards widows' insurance. The Committee notes this information. In view of the fact that, contrary

to the Convention, the payment of social insurance 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) is explicitly conditional upon their being resident in France, the Committee once again hopes that the Government will be able to indicate the measures that have been taken or are envisaged, as regards branches (d) and (e), to ensure the application in law and practice of this provision of the Convention, under the terms of which equality of treatment as regards the grant of benefits shall be accorded without any condition of residence to nationals of any State bound by the Convention.

2. Article 6. In reply to the Committee's previous comments concerning the obligation to provide family allowances in respect of children resident abroad on the territory of a member State that has accepted the obligations of the Convention for branch (i) (family benefit), the Government indicates that rights that are identical to those of French nationals are guaranteed to foreigners who are regularly resident in France - provided that their children are also regularly resident in France - as regards the grant of family benefits under the internal social security scheme, in conformity with sections L.512-1 and L.512-2 of the Social Security Code. Furthermore, certain family benefits (particularly family allowances) can be paid under Community regulations. Finally, a certain type of family allowance can also be paid abroad under the various bilateral social security agreements concluded by France. The Committee notes this information. It hopes that the Government will endeavour to conclude agreements with other member States concerned that have accepted the obligations of the Convention for the family benefit branch in so far as there exists migration with such States. The Committee requests the Government to supply information on any agreement concluded to this effect. (In addition to France, the following States have accepted the obligations of the Convention for branch (i): Bolivia, Cape Verde, Central African Republic, Guinea, Ireland, Israel, Italy, Libyan Arab Jamahiriya, Mauritania, Netherlands, Norway, Tunisia, Uruguay and Viet Nam.)

Guinea (ratification: 1967)

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

Article 5 of the Convention. With reference to its previous comments, the Committee notes 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 Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1968)

1. The Committee hopes 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.

2. Furthermore, the Committee refers to its observation made under Convention No. 111 concerning the representation submitted under article 24 of the Constitution.

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

Convention No. 119: Guarding of Machinery, 1963**Algeria (ratification: 1969)**

The Committee notes the information supplied by the Government in its report, according to which the texts issued under sections 7, 8 and 9 of Act No. 88-07, of 26 January 1988, on occupational safety and health and occupational medicine, will be transmitted when they have been enacted.

Article 2, paragraphs 3 and 4, of the Convention. Section 8 of Act No. 88-07 on occupational safety and health and occupational medicine, which prohibits the manufacture, exhibition, putting up for sale, sale, import, hire or transfer in any other manner of machinery or parts of machinery that do not correspond to current national and international health and safety standards, does not determine the machinery that is considered to be dangerous, nor the parts thereof which are likely to present danger.

In this connection, the Committee refers to paragraphs 73 and following of its General Survey on Safety in the Working Environment where it indicates that it is essential for the effective application of Part II of the Convention that the national legislation designate those parts of machinery that present danger and require appropriate guarding (paragraph 82) and that until there has been a determination of the machinery and parts thereof that present danger, the prohibition of the sale, hire, transfer in any other manner and exhibition of machinery contained in Article 2 of the Convention, remains ineffective.

It also indicated that the initial definition of dangerous machinery and parts thereof should as a minimum cover all those parts enumerated in Article 2 of the Convention (paragraph 85).

The Committee hopes that the regulations made under Act No. 88-07, the adoption of which is under way, will take account of the requirements of the Convention in this respect.

Article 4. The Committee notes that section 8 of Act No. 88-07 does not explicitly lay down the responsibility of all those who are involved in the manufacture and delivery of machinery: the manufacturer, the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor and their respective agents. The Committee hopes that the implementing regulations will ensure that these categories of persons are explicitly mentioned and that sanctions are laid down in the event of violations.

Articles 6 and 7. The Committee draws the Government's attention to the fact that section 8 of Act No. 88-07 does not explicitly prohibit the use of machinery any dangerous part of which, including the point of operation, is without appropriate guards. Furthermore, Act No. 88-07 does not explicitly establish the responsibility of the employer.

Central African Republic (ratification: 1964)

The Committee notes the information supplied by the Government in its report and the discussions held in the Conference Committee in 1989.

Article 2, paragraphs 3 and 4, of the Convention. In its previous comments, the Committee referred to section 37(3) of General Order No. 3758 which provides that dangerous machines or parts of machines of which the sale, exhibition or hire is prohibited under section 37(1) shall be specified by order.

The Committee notes that, according to the Government's report, the draft decree provided for under section 37 above is still before the competent authorities and has not yet been adopted. In its report, the Government states that this draft text is also to give effect to Articles 10, paragraph 1, and 11 of the Convention, concerning the measures that must be taken by the employer to bring national laws or regulations relating to the guarding of machinery to the notice of workers and to instruct them regarding the dangers arising from their use. Article 11 provides that no worker shall use any machinery without the guards provided being in position nor make inoperative these guards, while guaranteeing that, irrespective of the circumstances, no worker shall be required to use any machinery without the guards provided being in position or if they have been made inoperative.

The Committee notes the Government's statement that it is endeavouring to accelerate the adoption of the decree and once again hopes that this text will be adopted in the very near future.

Jordan (ratification: 1964)

In the comments that it has been making for many years, the Committee has referred to the absence of provisions in national law to give effect to Articles 2 and 4 of the Convention. Article 2 deals with the prohibition of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts specified in paragraphs 3 and 4 of the same Article are without appropriate guards. Article 4 provides for the extension of the responsibility of the vendor, the person letting out on hire or transferring the machinery and the exhibitor, in accordance with national legislation, to their agents.

The Government has referred on several occasions to the current draft of the new Labour Code which would give effect to the above provisions of the Convention. In its last report, the Government indicates that this draft text has been under examination since 1983 by the Council of Ministers, which is responsible for its enactment. It also indicates that the discussion of the draft text is taking place with the participation of all the parties concerned.

The Committee notes that the Government does not indicate whether a time-period is planned for the adoption of the new Code. In view of the fact that this matter has been the subject of its comments for many years, the Committee once again hopes that the Government will

take the necessary measures in the near future to give effect to the Convention in respect of the points that have been raised.

Madagascar (ratification: 1964)

Articles 2 and 4 of the Convention. In the comments it has been making for a number of years, the Committee has observed that Order No. 889 of 20 May 1960 contains, in sections 44 to 58, detailed provisions on the guarding of machinery, but that these provisions are applicable only to the use of the machinery and therefore have a more restricted scope than the provisions of the Convention. This instrument prohibits the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts specified in paragraphs 3 and 4 of the same Article are without appropriate guards. The Committee requested the Government to take the necessary measures to give full effect to the Convention on this point.

In its last report, the Government states that sections 55 to 58 of Order No. 889 lie within the terms of the Convention since they prohibit the employer from using machinery on which the dangerous parts are not protected and which have not been formally approved. The Government adds that, by extension, the prohibition of the sale, hire or transfer of this machinery may be deduced; however, a draft Order to amend or supplement Order No. 889 of 20 May 1960 is under examination by the Directorate of Labour and the new text will take into account the provisions of the Convention.

The Committee refers to paragraphs 55 to 63 of its 1987 General Survey on Safety in the Working Environment, in which it emphasised that "a mere prohibition of the use of inadequately guarded machinery cannot ... be considered as obviating the need to apply the requirements of Part II of the Convention concerning its sale, hire and transfer" (paragraph 62), and that "the prohibitions laid down in the Convention apply not only to the initial sale but also to subsequent sales by agents and to the hire, transfer and exhibition of unguarded machines, whether new or reconditioned" (paragraph 70).

The Committee once again urges the Government to take the necessary measures to give full effect to the Convention.

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.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Dominican Republic, Nicaragua, Niger, Uruguay.

Convention No. 120: Hygiene (Commerce and Offices), 1964

Jordan (ratification: 1965)

With reference to its previous comments, the Committee notes from the Government's latest report that, due to social and economic circumstances prevailing in the labour market, the draft Labour Code, which has been the subject of its comments since 1976, is still before the Council of Ministers. It notes the Government's indication that all social partners concerned have participated in the discussions on the draft Labour Code. The Government has also indicated that the representative organisations concerned have been invited to present new proposals and observations in order to take into account information which has come to light since 1983 concerning the economic and social life at the local, regional and international level. The committee responsible for drafting the Code is then to meet at regular intervals in order to review the draft in light of these new circumstances and to submit this information, along with any amendments deemed necessary, to the Council of Ministers for promulgation. In this regard, the Committee recalls the indication made by the Government in its 1982 report to the effect that the draft Labour Code should ensure the application of: Article 10 (maintenance of a comfortable and steady temperature at the workplace); Article 11 (workstations arranged so that there is no harmful effect on the health of the worker); Article 14 (sufficient and suitable seats for all workers); Article 16 (underground or windowless premises in conformity with appropriate standards of hygiene); Article 17 (the protection of workers against substances, processes and techniques which are obnoxious, unhealthy, toxic or for any reason harmful, including, where necessary, the provision of personal protective equipment); and Article 18 (reduction of noise and vibration at the workplace). The Committee also recalls that, in many circumstances, implementing measures will need to be taken by ministerial order so as to ensure that full effect is given to these provisions.

Furthermore, the Committee wishes to point out once again the following discrepancies which were present in the last version of the draft Labour Code made available to the Office:

- section 133(c) of the draft Labour Code provides for the placing of seats at the disposal of women, whereas, under Article 14 of

the Convention, sufficient and suitable seats must be supplied for all workers;

- section 144 of the draft Labour Code (to which the Government refers in relation to Article 15 of the Convention) provides for the use of personal protective equipment but does not provide for suitable facilities for the workers to change, leave and dry clothing that is not worn at work, as required by Article 15 of the Convention.

The Committee trusts that the Labour Code and implementing ministerial orders will be adopted very shortly and shall give effect to the above-mentioned Articles of the Convention, and will also, in accordance with Article 4(b), give such effect as may be possible and desirable under national conditions to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964. The Government is requested to indicate all progress made in this connection.

Madagascar (ratification: 1964)

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

For many years, the Committee had been calling the Government's attention to the fact that there were 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 had 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: Ghana, Lebanon.

Convention No. 121: Employment Injury Benefits, 1964

Senegal (ratification: 1962)

Article 8 of the Convention. In its previous comments, the Committee noted certain discrepancies between the list of occupational

diseases established by Decree No. 9364 bis of 14 November 1958 (modified by Decree No. 5199 of 18 April 1960), and the provisions of the Convention.

- (a) In the national legislation the list of diseases gives a restrictive enumeration of the pathological manifestations which may be caused by the substances mentioned in the Convention, whereas the schedule to the Convention is drafted in general terms so as to cover all such manifestations that may result from the diseases mentioned;
- (b) the list of occupational diseases in the national legislation does not provide for general coverage of all substances, exposure to which is likely to cause these diseases, in particular: (i) phosphorus or its toxic compounds: the national legislation mentions only white phosphorus and sesquisulphur of phosphorus (items 5 and 7); (ii) manganese or its toxic compounds: the national legislation mentions only bioxide of manganese (item 38); (iii) arsenic and its toxic compounds: the national legislation covers only the oxygen and sulphur compounds and arsine (items 20 and 21); (iv) toxic halogen derivatives of aliphatic hydrocarbons: unlike the Convention which is drafted in general terms and covers all toxic halogen derivatives of these substances, the national legislation enumerates only some of them (items 3, 9, 11, 12, 26, 27 and 33); and (v) primary epitheliomatous cancer of the skin: the national legislation refers only to epitheliomatous cancers caused by pitch (item 16).

In its report, the Government states that it will take all necessary steps to comply with the Committee's comments. It adds that the competent departments of the Ministry of Labour are currently working on a table of occupational diseases which will take account of the requirements of international standards for the protection of workers and the Committee's comments. The Committee takes due note of this information. It hopes, therefore, that a new list of occupational diseases taking account of the above-mentioned observations will be adopted in the near future, to ensure that full effect is given to the Convention.

Zaire (ratification: 1967)

1. Article 8 of the Convention. In reply to the Committee's earlier comments, the Government states that the draft text to supplement the list of occupational diseases in the schedule to Ordinance No. 66-370 of 29 June 1966, which was prepared by the Social Security Reform Commission, will be submitted to the National Labour Board for examination before being transmitted to the competent authorities for enactment. The Committee takes note of this information. In view of the fact that the Committee has been commenting on the question of amending the list of occupational diseases for 20 years, it hopes that the above draft will be adopted shortly and that the list will contain the following additions: (a) diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series; (b) diseases caused by benzene or its toxic homologues, in accordance with the provisions of the Convention.

2. Articles 13, 14 and 18 (in conjunction with Articles 19 and 20). In its report, the Government indicates that the maximum monthly remuneration that is subject to contribution for the pensions and occupational risks branches has increased from 2,000 zaires to 30,000 zaires. It also indicates that the Executive Council is in the process of examining draft legislation on the national employment and wage policy (adopted by the 25th Session of the National Labour Council, held from 17 to 22 July 1989), and that the text will fix a new guaranteed inter-occupational minimum wage which will affect the level of benefits. The Committee notes this information with interest. It also notes the proposals to increase the daily compensation rate for temporary incapacity. It notes, however, that the statistics provided by the Government in its report do not permit an appraisal of how effect is given to the above Articles of the Convention. Consequently, the Committee would be grateful if the Government would indicate in its next report whether it intends to have recourse to Article 19 or to Article 20 in comparing the amount of periodical benefits provided for in the national legislation with the minimum level prescribed by the Convention. It also asks the Government to provide the statistical information required by the report form under Articles 19 or 20 of the Convention. If the Government intends to have recourse to Article 19, it is asked, in particular, to state the maximum amount of periodical benefits payable in the event of temporary incapacity, total permanent incapacity and death of the breadwinner, and the wage of a skilled manual male employee chosen in accordance with paragraph 6 or paragraph 7 of Article 19. If the Government intends to have recourse to Article 20, it is asked to indicate the minimum amount of periodical benefits payable for each of the three contingencies mentioned above, and the amount of the wage of an ordinary adult male labourer chosen in accordance with paragraph 4 or paragraph 5 of Article 20. Please indicate also the amount of family allowance, if any, payable during employment and during the contingency.

3. Articles 23 and 24, paragraph 2. The Committee notes that the strengthening and extension of the regional social security committees responsible for ruling on appeals by insured persons were discussed during the work on social security reform at the 22nd Session of the National Labour Council. It also notes the Government's statement that the enactment of the new Social Security Code should make it possible to improve the operation of the social security system, in general, and of the regional committees. The Committee therefore asks the Government to provide detailed information on any progress made in the practical operation of the social security system and more particularly the regional committees, and to provide copies of the recommendations adopted in this connection by the National Labour Board. Furthermore, in connection with its previous comments, it again asks the Government to indicate whether the two regional committees still to be set up have now been constituted.

4. Article 21. The Committee would be grateful if the Government would provide information on the application of Article 21 of the Convention and supply the statistics required (under this Article) by the report form adopted by the Governing Body, concerning

the readjustment of currently payable periodical benefits in the event of permanent incapacity and death of the breadwinner as a result of occupational injury.

5. Lastly, the Committee hopes that the new Social Security Code to which the Government referred in its report will enable full effect to be given to the Convention once it has been adopted; it asks the Government to provide a copy of it as soon as it has been adopted.

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Finland, Libyan Arab Jamahiriya, Senegal.

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

Convention No. 122: Employment Policy, 1964

Bolivia (ratification: 1966)

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

1. The Committee notes the information supplied by the Government in reply to its previous comments. The Government recalls that, as a result of the world-wide crisis which began in 1980, and the fall in the international prices of minerals, there was a serious deterioration in the national balance of payments and a drastic reduction in income from taxation, which obliged the Government to take economic, fiscal and monetary measures to combat the serious situation. The Government repeats that it will implement emergency employment programmes including an active employment policy as referred to in Article 1, paragraph 1, of the Convention and in accordance with the measures proposed in the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). The Government refers in particular to the Emergency Social Fund through which employment generation measures in urban and rural areas were financed, in order to implement such projects for the sectors most affected by economic restructuring.

2. The Committee notes that the major success of the stabilisation policy pursued by the authorities since the end of 1985 has been to control hyper-inflation. Nevertheless, the Committee notes with concern that, according to the information available in the Office, unemployment has increased steadily, and it can be estimated that one-fifth of the economically active population was unemployed or underemployed at the end of 1987. The informal sector has absorbed some of the workers who lost their employment as a consequence of the rationalisation measures carried out in the public sector: for example, according to the

Government, a total of 23,000 workers were redeployed from the Bolivian Mining Corporation (COMIBOL) of whom 8,000 chose to enter the rural or informal sectors. Furthermore, it appears from the Government's report that the economic crisis has resulted in reductions in vocational training programmes.

3. The Committee once again trusts that the Government will declare and pursue, in accordance with Article 1, paragraph 1, of the Convention, "an active policy designed to promote full, productive and freely chosen employment". In this connection, the Committee recalls Paragraph 37(h) of Recommendation No. 169, which provides that, when adopting adjustment policies, governments should ensure that they promote employment and the satisfaction of basic needs. The Committee would be grateful if the Government would supply detailed information in its next report on the results achieved by employment programmes.

4. Article 3. In reply to its previous observation, the Government indicates that formal consultation procedures with representatives of employers' and workers' organisations will be gradually introduced as a function of the subsidies provided to enterprises. It states that consultations with representatives of the economically active population, such as those working in the rural and informal sectors, will be deferred until reliable representatives are found, since at present it is difficult to identify, quantify, or localise them, etc.: it is impossible for the State to know what their needs and requirements are in order to be able to give its support or implement its projects. The Committee again observes that in general the provisions of the Convention and of Recommendations Nos. 122 and 169 on employment policy do not provide for the postponement or suspension of consultations; the consultations provided for in the Convention should not be limited to matters of employment policy in the narrow sense, but should be extended to all aspects of economic policy which affect employment. Furthermore, in addition to providing for consultations in the formulation of employment policies, the instruments also envisage obtaining the co-operation of representatives of employers and workers in the implementation of this policy (see paragraphs 96 and 100 of the Committee's General Survey of 1972). The Committee therefore trusts that the Government will supply detailed information in its next report on the holding of the consultations required under Article 3 of the Convention.

5. The Government refers in its report to the technical assistance projects submitted to the ILO concerning the organisation of a labour census, the improvement of working conditions and employment in the mining and rural sectors, and employment creation. The Committee hopes that, taking into account the matters raised above, technical assistance projects will receive the necessary financial support for their implementation in order to assist the Government in promoting the application of the provisions of this Convention. The Committee would be grateful if the Government would continue supplying detailed information on the action that is taken and the results that are achieved by projects undertaken with the assistance and

assessment of the ILO in order to resolve the problem of unemployment and underemployment (Part V of the report form).

6. In a direct request, the Committee is asking for other information on the application of the Convention.

Brazil (ratification: 1969)

1. The Committee notes the Government's report and the information supplied in reply to its previous observation.

2. In its report for the period 1988-90, the Government indicates that it has decided to deal with the immediate causes of the serious level of inflation, which is the only manner of subsequently achieving full employment, since the best employment policy consists of stimulating economic growth, for which inflation has to be controlled. This is a priority objective of economic policy, and takes the form in particular of restrictive budgetary and monetary policies, a temporary freeze on prices and wages, and freeing imports. As regards the evaluation of the impact of the economic plan on employment levels, the Government states that the slow-down in economic activity resulting from the anti-inflationary policy has affected the poorest categories of the population and has resulted in an increase in the until now relatively low unemployment rate. The most affected have been the capital goods, civil works and the automobile and metalworking sectors. The Government expresses its concern at the negative impact on small and medium enterprises and the informal sector, in view of their traditional role in the creation of jobs and/or absorbing labour in periods of crisis. Although it notes that it does not have precise information available on the impact of the plan on employment levels, the Government reports that, according to the information supplied by the trade union movement, 300,000 workers were dismissed between March and April 1990 in Sao Paulo alone. It also foresees migrations from the North and North-West towards the South, Centre and South-East, with the main concentration of workers in the South-East. With a GDP growth rate for 1990 that it calculates at between -5.5 per cent and -2 per cent, the Government estimates that the unemployment rate is between 7.6 and 9.5 per cent, as compared with 3.7 per cent in 1988.

3. In view of the effects of the economic stabilisation policies and the estimates of a rise in the unemployment rate, the Committee would be grateful if the Government would refer in more detail in its next report to the measures that have been taken or are contemplated to give effect to the fundamental provisions of the Convention, including Article 1 which it recalls requires an active policy designed to promote full, productive and freely chosen employment to be declared and pursued, "as a major goal". Please indicate the difficulties that have been encountered in attaining these objectives (Article 1 of the Convention).

4. The Committee also notes the information on the general provisions of the Constitution of 1988 concerning the protection of workers' rights, and on the regulations adopted respecting dismissal, unemployment insurance, minimum wages and the decentralisation of the National Employment System (SINE). It would be grateful if the

Government would supply information on the procedures adopted to ensure that the effects on employment receive due consideration at both the planning and the implementation stages of the economic and social policy, and that the principal measures of employment policy are decided on and kept under periodical review on the basis of statistical and other data concerning the size and distribution of the labour force, the nature and extent of unemployment and underemployment and trends in these fields (Article 2).

5. In its previous comments, the Committee recalled the importance that it attaches to the consultation of representatives of the persons affected by employment policy measures that are to be adopted, so that they can fully co-operate in formulating and implementing these policies. Furthermore, it particularly welcomed the results achieved by the Government in establishing consultation procedures with representatives of the informal sector. The Committee would be grateful if the Government would continue to supply examples of the consultations held regarding employment policy with representatives of the informal and the rural sectors. More generally, it requests the Government to supply detailed information on other consultations that have taken place in order to promote the objectives of the Convention with representatives of employers and workers (Article 3).

6. Part V. The Committee notes with interest that the National Secretariat of Labour received the support of the Regional Employment Programme for Latin America and the Caribbean (PREALC) through the United Nations Development Programme (UNDP). It requests the Government to indicate in its next report the action taken as a result and also any factors which may have prevented or delayed such action.

Cuba (ratification: 1971)

The Committee takes note of a communication from the International Federation of Free Trade Unions (ICFTU), dated 31 January 1991, of which a copy was communicated to the Government in a letter dated 19 February 1991.

The ICFTU alleges that effect is not given to the provisions of the Convention guaranteeing free choice of employment and the possibility for all workers to acquire qualifications and use them without discrimination.

The Committee would be grateful if the Government would provide its own observations on the above allegations so that it may examine the substance of the question at its next session.

A direct request concerning certain other points is being sent to the Government.

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

Denmark (ratification: 1970)

1. The Committee takes note of the Government's report for the period ending 30 June 1990.

2. In the past few years, labour market policy has been redefined to place emphasis on "active" measures directed towards market flexibility and workers' skills rather than "passive" measures to assist the unemployed as formerly. It has none the less been influenced by the economic policy which the Government deemed necessary to reduce the budget deficit and redress the balance of payments. Since 1988, Parliament has concentrated on structural labour market problems, particularly as regards wage policy, the unemployment insurance system, inequality in unemployment and the training and further training requirements of certain categories of workers.

3. These new approaches are reflected in a number of amendments that were adopted in 1989-90 following tripartite negotiations, to the legislation on the public employment service and the unemployment insurance system (with the aim, *inter alia*, of developing private placement activities), on measures to create jobs for young people (which are now decentralised and simplified) and on training and apprenticeship places (the responsibility is transferred to the vocational training schools). The Committee notes in particular, among the "active" labour market policy measures, the job offer scheme which is designed to combat long-term unemployment by offering temporary work to the unemployed; this scheme was revised in 1989 and provides entitlement to training. As regards workers already in employment, the Government attaches great importance to further training in view of the technological developments and demographic factors.

4. The Committee notes from the information supplied by the Government, supplemented by the information available at the ILO or contained in the OECD documents, the persisting trend towards relatively high unemployment. Since its observations of 1989 and 1990, the overall unemployment rate has risen from 7.9 per cent in 1986-87, to 8.6 per cent in 1988, reaching approximately 10 per cent in 1990. Long-term unemployment remains the most difficult problem and largely concerns low-skilled workers. It can be noted from the recent OECD economic survey that stabilising inflation seems to require a rather high unemployment rate.

5. The Committee would be grateful if the Government would continue to provide information regularly on the implementation of the active labour market policy. It would be particularly grateful if the Government would provide data, as far as is possible, permitting an evaluation of the impact of the job offer scheme on long-term unemployment, the effects of the measures to decentralise employment promotion, or of the liberalisation of placement activities, while maintaining a public employment service that operates in accordance with the relevant rules. More generally, the Committee would be grateful if the Government would situate the employment policy within the overall economic policy, indicating the priorities granted to the objectives of growth, full employment, and the control of inflation and balance of payments, respectively.

Italy (ratification: 1971)

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

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. 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. 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. 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).

Mauritania (ratification: 1971)

The Committee refers to its observation under Convention No. 111 as regards the questions raised in the representation made under article 24 of the Constitution by the National Confederation of Workers of Senegal (CWTS).

New Zealand (ratification: 1965)

1. The Committee takes note of the information supplied by the Government in reply to its previous comments, and expresses appreciation of the detail and quality of the full report on the application of the Convention. The Committee also notes the observations of the New Zealand Employers' Federation and the New Zealand Council of Trade Unions (CTU) on the Government's report.

2. Article 1 of the Convention. The Government indicates that its overall strategy on employment policy for 1988-90 is essentially unchanged from that described in the previous report: balanced and sustained economic growth is the best means of generating productive employment. At the macro-economic level, the Government is pursuing firm fiscal and monetary policies with the goal of reducing inflation and the public debt. This strategy has been complemented by a series of structural reforms designed to facilitate the more efficient allocation of resources at a micro-economic level. The Government states that it has implemented an active employment market policy which forms parts of its economic and social programme. The Government recognises that, in the short term, this strategy will involve the unwelcome consequences of a drop in employment, particularly in sectors where regulatory or protective measures have been dismantled, and relatively high unemployment levels. The Government is not expecting any rapid improvement in the labour market situation, as labour markets are slow to adjust to change. However, the Committee notes that the Government refers in its report to the announcement by the Prime Minister of the Government's commitment to returning New Zealand to full employment by 1995.

3. In its observations, the New Zealand Council of Trade Unions comments that the Government did not go beyond general promise of full employment. The control of inflation has received higher priority than job creation. Monetary and exchange rate policies have had the effect of depressing activity and growth, leading to a high level of job losses. Deregulation has affected particularly certain sectors and regions. With regard to labour market policy and initiatives to assist young people in finding employment, the CTU states that these measures and programmes failed to address the causes of unemployment and so do not offer effective employment policies. The New Zealand Employers' Federation recognises the Government's efforts to improve employment levels but expresses the regret that labour market deregulation did not follow deregulation in other markets. In the view of the Federation, this essential contradiction in policies has had the effect of exerting strong economic pressure on employers and has resulted in an acceleration of unemployment.

4. With regard to the application of Article 2, the CTU states that the information supplied by the Government does not meet the requirements of this provision of the Convention under which Members must decide on and keep under review, within the framework of a co-ordinated economic and social policy, the measures to be adopted for attaining the objectives specified in Article 1. Furthermore, the CTU states that the consultations provided for in Article 3 have not been held, at least as regards consultations with workers' representatives.

5. With reference to its previous observation, the Committee notes, on the basis of the information supplied by the Government, the deteriorating trend in employment. During the period June 1988 to June 1990, the overall employment level dropped by 2 per cent in 1988-90, and the number of unemployed grew by 41.1 per cent. The overall unemployment rate increased from 5.3 per cent to 7.5 per cent of the active population over the same period, and the Government states that it is concerned at the high number of long-term unemployed (approximately one third of the unemployed remained without a job for 27 weeks or more) who are likely to have particular difficulty in finding remunerative employment.

6. The Committee trusts that the Government will continue to provide information on the measures that have been taken or are contemplated to guarantee, in accordance with Article 2, that the effects on employment of the implementation of economic policies receive due consideration and that the measures to be adopted for attaining the objectives of full employment specified in Article 1 are decided on and kept under periodical review. It would also be grateful if the Government would indicate the manner in which the representatives of workers' organisations, in particular, are consulted, as required by Article 3.

Peru (ratification: 1967)

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

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.

Spain (ratification: 1970)

1. With reference to its previous comments, the Committee is grateful for the very detailed information sent by the Government in its report for the period ending 30 June 1990. The Government indicates that the employment promotion policy implemented during the period covered followed the same course as has been pursued since 1984: the programmes to assist job creation in the private sector and the special employment programmes for the public sector have been maintained. Since 1990, special employment plans for depressed rural areas have been implemented by the Autonomous Communities. Special measures to promote employment include an increase in the jobs on offer in the public sector, tax incentives granting tax reductions for job creation, and assistance to geographical mobility, day-care centres for children and migrant workers. The most recent objectives of the National Plan for Training and Occupational Integration concern the integration of young workers into the labour market and the vocational training of workers with family responsibilities.

2. According to the information supplied, there has been a sustained increase in employment, of approximately 4 per cent in 1989,

particularly in the construction and services sectors, but there have been substantial decreases in the rural sector and in the Autonomous Communities of Andalucia and Extremadura (where the unemployment rate is now around 26 per cent). Employment of wage earners increased by 6.2 per cent, particularly involving temporary workers. Their proportion of wage-earning employment has greatly increased from 15.6 per cent in the second quarter of 1987 to 28.2 per cent in the fourth quarter of 1989. The number of persons in permanent jobs has increased by 101,200 and in temporary jobs by 405,400. There are more male than female employees in permanent employment (73.4 per cent in respect of men as opposed to 67.8 per cent in respect of women). Temporary contracts are also more frequent among young workers. However, taking account of the substantial increase in the economically active population - particularly in the case of women entering the labour market - the unemployment rate is particularly high (approximately 20 per cent or more between 1986 and 1988, and around 17 per cent in 1989 and 1990). Long-term unemployment still accounts for approximately 50 per cent of total unemployment, and the unemployment rate is three times higher among young workers than among other categories of workers.

3. In reply to previous comments, the Government provides detailed information on the results of the different recruitment procedures designed to promote employment which make it possible to recruit specific categories of workers which encounter difficulties in entering the labour market (young people, women, older workers, the disabled). The Committee takes note of the document concerning precarious employment, submitted by the Trade Union Confederation of Workers' Committees in September 1990, which points out that instability and fleeting attendance at the place of work not only destroy the basic concepts of democratic society but also lead to a supply of labour of low productivity. The Committee recalls its comments on the application of the Termination of Employment Convention, 1982 (No. 158), in which it requested particulars of the use made of certain types of contracts of employment which might avoid the protection provided for in the above Convention, and would be grateful if the Government in its next report on Convention No. 122 would continue to provide information on the progress achieved in satisfying the needs of all categories of persons that frequently encounter difficulties in finding lasting employment.

4. The Committee notes the agreements reached since January 1990 in the discussions between the Government and the trade unions. The Committee hopes that, in accordance with the provisions of Article 3 of the Convention, consultations with the representatives of the persons concerned will make it possible for the latter's experience and views to be taken fully into account and for their full co-operation to be obtained in formulating and implementing employment policy. It would be grateful if the Government would continue to provide the information required by the report form to show developments in the area of employment policy, including details on the results of employment promotion measures both nationally and in the Autonomous Communities.

Tunisia (ratification: 1966)

1. The Committee notes the information provided by the Government in its general report in 1989, and in the report on the application of the Convention for the period ending 30 June 1990. According to this information, some 170,000 new jobs were created during the first four years of the VIth National Economic and Social Development Plan, 1987-91. The objective of this Plan was to create 240,000 jobs, in view of an estimated rise of 70,000 in the annual demand for jobs, although this estimate was raised to a lower figure (40,000 per year) after taking into account the extension of school attendance and the net flow of migrants. These results have been attributed by the Government to an employment promotion policy based on four central themes: renewal of economic growth, a new policy for enterprises, the promotion of labour-intensive activities, the demographic policy and the development of human resources. With reference to its previous observation, the Committee notes this information with interest, although it observes that the information only very partially describes the situation, level and trends of employment, unemployment and underemployment.

2. The Committee also notes the detailed information concerning the various selective and specific employment policy measures, such as: the promotion of investment in the service sector, particularly through tax incentives that are directly linked to employment, a policy of easy credit to the crafts and fishing sectors, and measures to decrease the cost of labour through a reduction in the social contributions of enterprises. The Committee particularly notes the measures and programmes that have been introduced to combat the persistent difficulty of the integration of young persons into the labour market, and particularly the introduction of persons with secondary and higher education qualifications to working life, as well as the strengthening of the vocational training programmes undertaken by the Vocational Training and Employment Office (OFPE). In this connection, the report indicates that, in order to promote vocational training and employment, the OFPE has undertaken a structural and operational reform of its central and regional services so as to improve the effectiveness of the vocational training system and improving placement services. The Government once again supplies information on its regional development policy measures, and in particular on rural development, and on the continuing programme of labour-intensive works.

3. The Committee would be grateful if the Government would supply information on the situation, level and trends of employment, unemployment and underemployment, both in aggregate and as they affect particular categories of workers such as women, young persons, older workers and disabled workers, and if it would continue indicating the extent to which the employment objectives set out in the VIth Plan have been achieved and state the special difficulties that have been encountered (Article 1 of the Convention). It also requests the Government to continue supplying information on the impact of selective employment policy measures, particularly those intended to satisfy the needs of the categories of workers specified above. It would also be grateful if the Government would describe the policy

that is followed as regards the aspects of international migration that are related to employment policy.

4. Finally, the Committee notes that employers' and workers' organisations are represented on the national training and employment commission, which is responsible for determining the employment policy within the framework of the preparation of the VIIIth National Economic and Social Development Plan, 1992-96. It would be grateful if the Government would supply information on the manner in which the representatives of the persons affected are consulted, and the results of these consultations, in accordance with Article 3 of the Convention, particularly as regards the preparation and implementation of the employment policy within the framework of the VIIIth Plan. More generally, it hopes that the Government will not fail to supply information in future reports on the employment objectives set out in the VIIIth National Economic and Social Development Plan, 1992-96, and on the measures taken to pursue "an active policy designed to promote full, productive and freely chosen employment".

Turkey (ratification: 1977)

The Committee notes the information supplied by the Government in reply to its previous comments and appreciates the quality of the report on the application of the Convention. This report indicates that the level of employment increased by 2.49 per cent between September 1988 and April 1990, while the unemployment rate remained stable during the same period (8 per cent and 8.03 per cent respectively). The Committee notes, however, that the unemployment rates indicated in the Government's general report for the period ending 30 June 1989 are 14.4 per cent in 1988 and 13.7 per cent in 1989. It also notes that unemployment among young persons continues to be high (the rates for the age groups 15-19, 20-24 and 25-29 years are respectively 12.5 per cent, 40.3 per cent and 23.4 per cent, representing together some 76 per cent of all unemployed persons).

The Committee notes that the measures taken within the framework of the Action Programme 1990 of the Sixth Five Year Development Plan (1990-94) were intended to increase the growth rate in the manufacturing industry, services and agricultural sector by 12.6 per cent, 11.8 per cent and 10 per cent respectively, but that these rates are unlikely to be achieved as a result of the Gulf crisis. Furthermore, investments having a positive and direct effect on the creation of employment should increase by 8.6 per cent in comparison with the previous year. The Committee also notes the impact of measures taken under the regional and industrial development, the labour market, the education and the training policies, and of measures for women, the disabled, returning migrant workers and released prisoners.

The Committee also notes the information concerning the employment projects in which the ILO and other international agencies have participated, and particularly the commencement of the project on the labour market information system (IPES). It would be grateful if the Government would continue to supply information on the matters referred to above and particularly on the employment objectives set

out in the Sixth Five Year Development Plan, especially as regards young persons, and if it would indicate the extent to which these objectives have been or are being attained. The Committee is addressing a request directly to the Government on other points.

United Kingdom (ratification: 1966)

1. The Committee takes note of a communication from the Trades Union Congress (TUC), dated 21 December 1990, a copy of which was addressed to the Government.

2. The TUC points out that it had to submit its comments on the application of the Convention before receiving the Government's report for the 1988-90 period. The TUC states that it is deeply concerned about the failure to apply the Convention properly.

3. The Committee takes note of the Government's report received in February 1991. The Government provides detailed information on the application of the Convention and in reply to the Committee's previous comments. It indicates that it has sent copies of its report to the Confederation of British Industry (CBI) and the TUC, but that it has received no comments in reply.

4. The Committee does not feel itself to be in a position to undertake rapidly a full examination of the application of the Convention, so as to come to any conclusion on the Government's and TUC's diverging assessments as to the consistency of government policy with the principles of the Convention. However, it notes the difficulties that the TUC again raise with regard to the lack of constructive discussion between the Government and the social partners, which continue to be a source of concern to the Committee.

5. The Committee proposes to defer to its next session its examination of the application of the Convention. In order to do so, it would be grateful if the Government would make the observations on the matters raised by the TUC in the above communication. More generally, the Committee can only reiterate the hope that the Government's next reports will be supplied by the due date to the ILO and the employers' and workers' organisations concerned, in order to facilitate the necessary tripartite discussion and the examination of the report. Finally, it asks the Government, as it did in its 1990 observation on Convention No. 142 (human resources development), to provide additional information showing that the policy pursued will not have the effect of lowering the level of the Government's commitment with regard to its main obligations under the Convention, particularly as concerns the requirements for co-operation with employers' and workers' organisations.

Venezuela (ratification: 1982)

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

1. The Committee notes 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.

Zambia (ratification: 1979)

1. The Committee takes note of the information contained in the Government's report. In its previous observation, the Committee note the decision taken in 1987 to abandon the IMF restructuring programme owing to its negative economic and social effects, and to prepare, within the framework of the Interim National Development Plan (INDP) a new economic recovery programme based on the country's own resources. In its report for the period 1989-90, the Government indicates that it has laid down employment objectives and strategies within the ambit of the Fourth National Development Plan (FNDP) for 1989-93, but that the achievements during the period under review have been somewhat limited. The reasons given by the Government concern the macro-economic measures implemented in the context of the Fourth Plan and their serious effects on employment and training. The Government draws attention to the wage rises following the deregulation of prices as factors that have affected employment and investment levels.

2. The Committee would be grateful if the Government would provide additional information on: (i) the employment objectives laid down in the Fourth Plan (1989-93), indicating to what extent they are in the process of being attained and the particular difficulties encountered in this respect; (ii) the main policies pursued and measures taken, with particular reference to overall and sectoral development policies, labour market policies and education and training policies; and (iii) the situation, level and trends of employment, unemployment and underemployment (Article 1 of the Convention).

3. With regard to sectoral development policies, the Government's report indicates that the tourism sector is receiving high priority, in particular because it has great potential in terms of generating employment opportunities and bringing in foreign exchange earnings. These features were pointed out by the Committee in its General Survey on the Instruments concerning Human Resource Development, which, in the context of ILO technical co-operation projects which are gaining considerable importance in this sector, points out that the decisive element in such projects is the training component. The Committee would be grateful if the Government would provide information on the attainment of the objectives referred to in the report, particularly as concerns employment and training.

4. In its previous observation, the Committee noted with interest the social partners' participation in the definition of objectives and strategies for the Fourth National Development Plan, and the improvement in formal consultations with workers and employers in the context of the Industrial Relations Act. The Committee hopes that the next report will contain information on co-operation with the representatives of the persons affected, as required by Article 3 of the Convention, particularly as regards implementation of the employment policy.

5. Furthermore, a direct request is being addressed to the Government on a number of other points concerning the application of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Bolivia, Byelorussian SSR, Cameroon, Cuba, Djibouti, Greece, Guinea, Hungary, Islamic Republic of Iran, Iraq, Jordan, Lebanon, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mongolia, Morocco, Nicaragua, Panama, Papua New Guinea, Peru, Poland, Suriname, Thailand, Turkey, Uganda, Ukrainian SSR, Venezuela, Yugoslavia, Zambia.

Convention No. 123: Minimum Age (Underground Work), 1965

Rwanda (ratification: 1970)

Further to its previous observations, the Committee notes from the Government's report that the laws and regulations which are to bring the legislation into conformity with the Convention are being drafted and will be adopted shortly. The Committee hopes that these drafts will be adopted in the near future and that they will determine:

- (a) in accordance with Article 2 of the Convention, that the minimum age of 18 years shall be fixed for admission to employment or work underground in mines, including underground employment and work in quarries;
- (b) in accordance with Article 4, paragraphs 4 and 5, that the employer shall keep, and make available to inspectors, records, in respect of persons who are employed or work underground and who are less than two years older than the minimum age for admission specified by the Government, i.e. in Rwanda persons under 20 years of age; and that these records shall indicate the date of birth of such persons and the date at which they were employed or worked underground in the undertaking for the first time;
- (c) in accordance with Article 4, paragraph 1, that appropriate penalties shall be provided to ensure the effective enforcement of the minimum age fixed.

The Committee asks the Government to indicate the measures taken to bring the legislation into harmony with the Convention. It notes with interest the consultations held with the International Labour Office in this respect.

Convention No. 124: Medical Examination of Young Persons (Underground Work) 1965

Portugal (ratification: 1985)

Further to its previous comments, the Committee notes with satisfaction the adoption of legislative Decree No. 162/90, of 22 May 1990, issuing general occupational safety and health regulations in mines and quarries.

Section 157(1) of the above Decree provides, in accordance with the Convention (Article 2, paragraph 1), that all persons working in

mines and quarries must be given a medical examination upon recruitment and periodical, occasional and supplementary medical examinations without charge to the workers.

Section 157(2) also provides that, for workers aged between 18 and 21 years who are assigned to underground work, periodical examinations must be carried out at least every 12 months (Article 2, paragraph 1, of the Convention) and that the initial medical examination must include an X-ray of the lungs (Article 3, paragraph 2).

The Committee also notes that section 2(d) and (e) of Decree No. 162/90 give effect to Article 4, paragraphs 4 and 5, of the Convention by making it compulsory for employers to keep records which indicate, for each person aged under 21 years, their date of birth, an indication of the nature of their occupation and a certificate which attests fitness for employment, which shall be made available to inspectors and workers' representatives at their request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Madagascar, Tunisia, Uganda.

Convention No. 125: Fishermen's Competency Certificates, 1966

Sierra Leone (ratification: 1967)

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 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.

In addition, the Committee would appreciate information concerning efforts made by the Government to obtain details of vessels to which the Convention may apply.

Trinidad and Tobago (ratification: 1972)

Further to its previous observations, the Committee notes that the Government's report has not been received. In the absence of legislation to give effect to Parts II, III, and IV of the Convention, the Committee would encourage the Government to consider the possibility of requesting appropriate assistance from the ILO in drafting regulations to be made by the Minister under section 87 of the Shipping Act (No. 24 of 1987).

* * *

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

Convention No. 126: Accommodation of Crews (Fishermen), 1966Sierra Leone (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. The Committee is once again addressing a direct request to the Government on the points raised in its previous direct request.

Yugoslavia (ratification: 1973)

With reference to its earlier comments, the Committee notes with satisfaction the Government's statement in its last report that Chapter 3.11, part 20 of the 1976 Rules for the Construction of Sea-Going Ships, Part XII on Protection at Work applies to all vessels including those below 500 tons, thus giving full effect to the requirements of Article 8 of the Convention.

* * *

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

Convention No. 127: Maximum Weight, 1967Chile (ratification: 1972)

The Committee takes note of the information provided by the Government to the effect that a copy of its observations has been transmitted to the special committee that is studying the draft General Regulations of the Labour Code.

The Committee notes that the Government's report contains no information on the questions raised in its previous observation. It asks the Government in its next report to supply information on the following matters.

Article 3 of the Convention. The Committee noted that Circular No. 30 of 4 December 1985, from the Director of Labour to the Regional Directors of Labour and the Provincial and Communal Labour Inspectors, lays down instructions on the maximum weight that may be manually transported by workers. This Circular gives effect to Articles 3, 4 and 7, paragraph 2, of the Convention by reducing the maximum weight of a load permitted to be manually transported to 55 kg, which is the weight recommended in Recommendation No. 128, and by specifying that the maximum weight of loads for women and young workers shall be substantially less than that permitted for adult male workers.

The Committee noted the above Circular with interest and asked the Government to indicate:

- whether sections 57 and 252 of Presidential Decree No. 665 of 7 March 1941 laying down the general regulations on occupational safety and health, which fix a maximum weight of 80 to 86 kg have been repealed and, if so, by virtue of which provisions; and
- whether the Circular has been published and distributed to employers, workers, courts and all other persons concerned.

Article 6. The Committee noted that section 8 of Circular No. 30 prescribes that mechanical devices shall be used for the transport of loads weighing over 55 kg. While this represents an improvement over the former weight limit of 80 kg for the use of such devices to be required, the Committee points out that Article 6 of the Convention requires suitable technical devices to be used as much as possible, not only for loads over the 55 kg weight limit. Please indicate the measures taken or envisaged in order to apply fully this provision of the Convention.

Article 7, paragraph 1. The Committee notes that Circular No. 30 does not provide that the assignment of women and young workers to manual transport of loads other than light loads shall be limited. The Committee again expresses the hope that the Government will take the necessary measures to ensure full compliance with this provision of the Convention.

Article 7, paragraph 2. The Committee notes that section 4 of Circular No. 30 prescribes that the maximum weight of loads for women and young workers shall be substantially less than that permitted for adult male workers, without specifying maximum limits. Please indicate whether weight limits have been prescribed or are envisaged in this regard.

Madagascar (ratification: 1971)

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

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

Thailand (ratification: 1969)

In its previous comments, the Committee pointed out that the current legislation did not give full effect to the Convention. The Committee notes the Government's indications in its report that new legislation is being prepared: the Committee is therefore commenting on a number of questions relating to the application of the Convention in a request that is addressed directly to the Government.

Tunisia (ratification: 1970)

Article 3 of the Convention. The Committee noted that section 1 of the Order of 5 May 1988 establishes the maximum permissible weight to be carried regularly by men at 100 kg, which considerably exceeds the maximum of 55 kg recommended in Paragraph 14 of the Maximum Weight Recommendation, 1967 (No. 128). The Committee pointed out that under 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. In the Committee's opinion, the regular manual transport by a man of loads that may weigh up to 100 kg is likely to jeopardise his health or safety. The Committee therefore hoped that the Government would take the necessary measures in the near future to give full effect to Article 3 of the Convention.

The Committee notes the information supplied by the Government respecting the medical services in non-agricultural enterprises (section 153 of the Labour Code, the framework collective agreement of 20 March 1973) which are responsible for monitoring the health of the staff, their physical aptitude for the work they are required to perform, both at the time of recruitment and during employment, and for protecting them against dangers to their health to which they may be exposed due to their occupation. It also notes the national collective agreement for ports and docks, concluded on 29 April 1975, which provides, in section 29, for the establishment and installation, in each port, of a medical service responsible for monitoring the health of employees and the dependent members of their families, their physical aptitude for the work they are required to perform and for protecting them from the dangers to their health to which they may be exposed.

The Committee requests the Government to supply information on the surveillance exercised by these services with regard specifically to workers employed in the manual transport of loads, and to supply, for example, copies of the reports that have been made on the health of these workers.

Furthermore, in view of the very high maximum weight established in section 1 of the Order of 5 May 1988, the Committee requests the Government to re-examine this provision in the light of the Convention and of Recommendation No. 128.

Article 5. The Committee noted that the Tunisian Association for Safety and the Improvement of Working Conditions is making workers and enterprise managers aware of the methods of carrying loads, particularly through the organisation of seminars and the

dissemination of posters. In view of the extremely high maximum weight established in section 1 of the Order of 5 May 1988, the Committee emphasised the particular importance of the training measures provided for in Article 5 of the Convention to safeguard health and prevent accidents. It requested the Government to supply more detailed information on the training activities undertaken, in accordance with this Article of the Convention, and, more particularly, on the frequency and content of the above-mentioned programme of seminars, and it requested the Government to send copies of the posters disseminated by the above Association.

The Committee notes, from the Government's report, that the Tunisian Association for Safety and the Improvement of Working Conditions (ATSACT), which comes under the authority of the Ministry of Social Affairs, includes among its responsibilities the promotion of measures for the physical protection of workers, and that it undertakes several types of training activities intended to develop the spirit of occupational health and safety and to impart knowledge concerning the prevention of occupational risks through periodical training cycles, specialised training sessions and training upon demand.

The Committee notes that the training courses to which the Government refers are intended for instructors, middle-level managers and foremen. The Committee requests the Government to supply information on the methods used to disseminate this training to workers assigned to the manual transport of loads.

Article 6. The Committee noted, from the Government's report, that ever-increasing mechanisation is being noted in enterprises, which limits and facilitates the manual transport of loads. It requests the Government to supply more detailed information on the technical devices used in accordance with Article 6 of the Convention to limit or facilitate the manual transport of loads.

Article 7, paragraph 1. The Committee noted that the Order of 5 May 1988 does not contain a provision giving effect to Article 7, paragraph 1, of the Convention, under which the assignment of women and young workers to the manual transport of loads other than light loads shall be limited.

The Committee notes the Government's statement that the reduction of the maximum weight of loads that may be transported by women and young workers, provided for in the Order of 5 May 1988, is such as to limit the assignment of these two categories of workers, and that certain types of transport are prohibited under the above Order for women and young workers, such as transport on goods tricycles with pedals, which is prohibited for women of any age.

The Committee requests the Government to supply information in future reports on any measure that is taken to limit the assignment of women and young workers to the manual transport of loads.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Lebanon, Nicaragua, Thailand, Venezuela.

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967Bolivia (ratification: 1977)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in a new direct request.

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:

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Germany, Libyan Arab Jamahiriya.

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

Convention No. 129: Labour Inspection (Agriculture), 1969

Malawi (ratification: 1971)

Article 19 of the Convention. Further to its earlier observations, the Committee notes the Government's statement that, subject to approval by the National Assembly, provision is to be made for an obligation on employers in agricultural undertakings to notify occupational diseases; and for inspectors to be involved on the spot in making inquiries into the causes of serious occupational accidents or occupational diseases. The Committee hopes the Government will provide information on progress made in this respect in its next report. Meanwhile, the Committee would be glad if the Government would provide information on the practical measures operating in application of this Article.

Articles 26 and 27. The Committee notes that no report has yet been received as required by these Articles. The matter is being pursued under Convention No. 81, Articles 20 and 21.

* * *

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

Convention No. 130: Medical Care and Sickness Benefits, 1969

Finland (ratification: 1974)

Article 17 of the Convention. The Committee notes the information supplied by the Government in its report. It notes with interest the adoption of new regulations concerning the reimbursement of cost sharing for medicine and transport when the total of the cost sharing for the year reaches respectively FIM 2,833 for medicines and FIM 500 for transport.

The Committee also notes the comments transmitted by the Central Organisation of Finnish Trade Unions (SAK), which are contained in the report. In the opinion of the SAK, because the communities do not have enough capacity to provide basic municipal health care, people have been forced to resort to private health services; some 30 per cent of the costs incurred are refunded. The Committee would be grateful if the Government would supply detailed information on the impact of this situation on the implementation of the Convention, taking into account the requirements of Article 17, which provides that the rules concerning cost sharing by the beneficiary or his breadwinner in the cost of medical care shall be so designed as to avoid hardship and not to prejudice the effectiveness of medical and social protection. Please also state the rules that are in force

respecting the reimbursement of the cost of medical care that is provided by private practitioners.

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

Libyan Arab Jamahiriya (ratification: 1975)

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

The Committee 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.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Denmark, Libyan Arab Jamahiriya, Luxembourg, Norway.

Convention No. 131: Minimum Wage Fixing, 1970

Sri Lanka (ratification: 1975)

The Committee notes the comments in the Government's last report concerning the observations made by the Ceylon Federation of Trade Unions, dated 10 October 1989, which were transmitted to the Government in a letter dated 27 October 1989.

In this connection, the Committee notes that the Government indicates in its report that there is an obligation on the parties to collective agreements to honour the terms agreed upon and violations, if any, may be reported to the competent authority for action. The Government also indicates that workers who are not covered by collective agreements are bound by the decisions of the Wages Boards and the provisions of the Shop and Office Employees' Act. Violations may be reported by the workers, and employers who have committed offences will be prosecuted.

While noting the Government's comments, the Committee recalls that, in its previous observation, it noted that the inspection service had been strengthened, but pointed out that, according to the statistical information provided in the Government's report, the

amount of unpaid wages reported by the labour inspectors remained high. The Committee therefore once again expresses the hope that the Government will do its utmost to remedy this situation and 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.

Article 4 of the Convention. With reference to its previous comments, the Committee recalls the observations made concerning the comments submitted by the United Plantation Workers' Union, the Democratic Workers' Congress, the Lanka Jathika Estate Workers' Union and the Ceylon Workers' Congress, as well as the Government's comments concerning the application of this Article. In this connection, the Committee recalls that in its previous comments, it noted the information contained in the Government's report (March 1990) to the effect that the wages of workers in the tea-growing and manufacturing trade, rubber-growing and manufacturing trade and the coconut-growing trade were increased substantially in 1988, but that the question of wage structure in the plantations sector needed elaborate analysis. At the time, the Committee expressed the hope that such an analysis would 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 Board Ordinance, would also be maintained and implemented in the plantations sector. The Committee again asks the Government to indicate the measures that have been taken or are contemplated for this purpose.

The Committee asks the Government to refer to the request being addressed to it directly concerning other points.

Uruguay (ratification: 1977)

The Committee notes the information transmitted by the Government in relation to its 1990 observation, as well as the information concerning the practical application of the Convention. It also noted the comments made by the Inter-Union Workers' Assembly - National Workers' Convention (PIT-CNT) concerning the application of Articles 3 and 4 of the Convention, and the Government's observations on these comments. According to these allegations, which were received respectively on 28 February 1990 and 7 March 1990, when fixing minimum wages by branches of activity and categories of employment, Act No. 10449 (respecting minimum wages fixed by collective bargaining in tripartite councils) is applied in form but not in practice; this is because the Government does not follow the procedure established by the Act, but instead fixes minimum wages unilaterally as provided for in Legislative Decree No. 14791. The PIT-CNT states that on various occasions the Government has omitted to convene wage councils and has established the minimum wage by unilateral decision. It also states that the Government has not confirmed any collective agreement that does not comply with its economic guide-lines. The PIT-CNT adds that, even though sufficiently representative organisations of rural workers exist, the system of wage councils is not applied to these workers, for whom the minimum wage is fixed unilaterally. Finally, it states that the national general minimum wage has fallen behind wages

in general. The PIT-CNT also points out that the increases in minimum wages fixed as a result of periodical reviews based on the inflation rates projected by the Government are frequently lower than the actual inflation rate, which is calculated erroneously by the Government.

The Committee also notes from the Government's report that the workers' delegation to the tripartite advisory group on international relations has stated that the national minimum wage, and the wages of rural workers, continue to be fixed unilaterally by the Government, without the participation of the trade unions.

Article 1, paragraph 3, of the Convention. With reference to its previous comment, the Committee notes with satisfaction the adoption of Decree No. 433/990, of 19 September 1990, establishing a minimum wage for domestic workers, both in Montevideo and the interior of the country. It also notes the Decree of 19 September 1990 fixing the minimum wage for rural workers.

Article 2, paragraph 2. The Committee notes that, according to the PIT-CNT, the Government has not confirmed any collective agreement that does not comply with its economic guide-lines. In this connection, the Committee refers to the conclusions of the Committee on Freedom of Association on this question at its November 1989 Session (see 268th Report, Case No. 1460, paragraph 571). The Committee on Freedom of Association pointed out that "in the Uruguayan system, what is referred to as 'confirmation' of a collective agreement is, strictly speaking, an 'extension' of its application to all workers employed in the branch of activity concerned if they do not belong to the signatory trade union organisations or the enterprises to which the collective agreement applies. However, in the event of refusal to extend a collective agreement, nothing appears to prevent the workers who are not covered by the agreement to conclude other collective agreements through their trade union organisations." The Committee on Freedom of Association therefore considered that these allegations did not call for further examination.

Article 3(a). The Committee notes that minimum wages are fixed within the context of the economic plan to reduce inflation and combat the state's fiscal deficit, and that the periodical reviews of wages take into account the fluctuations in the Consumer Price Index (CPI), which is established on the basis of the current values of a basket of goods and services adjusted to the needs of a model family. Finally, it notes the statement that agreements on guide-lines for fixing minimum wages have been concluded recently in "social dialogue bodies" at the highest level of the Government and occupational organisations, which has made it possible to conclude medium- and long-term agreements on wages, with an effective recuperation of real wages.

The Committee notes the Government's comments relating to the Committee's previous observation and the comments of the PIT-CNT, and wishes to point out that, according to the detailed data supplied by the PIT-CNT in its comments, there continues to be a gap between the minimum wages that are fixed and the CPI, which is used as a basis for establishing them. The Committee requests the Government to continue supplying information on the measures that have been adopted to give effect to this Article and, in particular, to take into consideration the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social

security benefits and the relative living standards of other social groups.

Article 4, paragraphs 2 and 3. The Committee notes the Government's explanations concerning the current procedures for establishing minimum wages in the country. The Committee notes that the Government recognises in its comments that, at least for the first quarter of 1990, the minimum wage was fixed unilaterally for some workers, but, after this period, minimum wages were fixed in wage councils by branches of activity and occupational categories. The Committee also notes that, according to the PIT-CNT, within the context of the so-called medium-term agreements, the Ministry of Labour decided that, in the event of employers and workers not reaching agreement, wage reviews would be determined by the percentages that the Government would fix in each case, and that as a result of this, the employers on various occasions made proposals that were unacceptable to the workers or simply did not come to the negotiations, with the consequence that the Government could unilaterally fix the corresponding reviews of minimum wages. The Committee would therefore be grateful if the Government would continue supplying information on the measures that have been adopted to ensure that the organisations of workers concerned are adequately consulted in the fixing or reviewing of minimum wages, either through wage councils or any other procedure that the Government considers to be more appropriate.

The Committee notes that the Government has also stated that the minimum wage of rural workers is established unilaterally since there are no trade union organisations representing all rural workers and these workers are very widely dispersed geographically in their enterprises. The Committee also notes that, according to the PIT-CNT, there are representative organisations of rural workers. The Committee points out that paragraph 2 of this Article contains provisions on this subject. The Committee therefore requests the Government, taking into account the suggestions that it made in its 1990 observation, to supply information on the measures that have been adopted or are contemplated to ensure that the minimum wage of rural workers is established in consultation with the organisations of the workers concerned or with representatives of these workers, as laid down in this Article of this Convention.

The Committee notes that the national minimum wage applies to marginal sectors and also notes that the PIT-CNT agrees with this assertion. However, the Committee notes the Government's acceptance that the minimum wage is fixed unilaterally, that the minimum wage does not appear to increase at the same rate as other minimum wages, that the national minimum wage fixed by virtue of the Decree of 27 September 1990 is lower than the minimum wage that has been fixed for domestic workers in Montevideo (Decree No. 433/990). It also notes that the workers' delegation to the tripartite advisory group on international relations repeats its statement, as contained in the Government's report, that the minimum wage is fixed unilaterally by the Government. The Committee therefore requests the Government to supply information on the measures that have been adopted to ensure, when fixing the national minimum wage, that the workers' organisations concerned are consulted and that the minimum wage takes into account

the elements set out in Article 3 of the Convention and, in particular, the needs of workers.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Guatemala, Lebanon, Sri Lanka.

Convention No. 132: Holidays with Pay (Revised), 1970

Iraq (ratification: 1974)

The Committee notes the Government's report has not been received. It is again raising certain questions in a direct request.

Uruguay (ratification: 1977)

Further to its earlier comments, the Committee notes with satisfaction that under Act No. 16.101 regulations have been made to give all workers in the private sector and in non-state bodies the right to 100 per cent of holiday pay in advance, in conformity with Article 7(2) of the Convention. The Committee is again taking up the application of this provision to public servants, and certain other questions, in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Cameroon, Germany, Guinea, Iraq, Ireland, Italy, Kenya, Luxembourg, Madagascar, Portugal, Spain, Sweden, Uruguay, Republic of Yemen, Yugoslavia.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

Guinea (ratification: 1977)

The Committee notes that the national legislation contains provisions of a general nature respecting occupational health and safety, but that it contains no specific text giving effect to the provisions of the Convention. It also notes that, by virtue of section 171(2) of the Labour Code, ministerial orders shall determine the specific requirements either for certain occupations or for certain methods of work.

The Government states in its report that the appropriate texts to issue regulations are being prepared and will be reviewed with the technical assistance of the ILO to ensure that they are in conformity with the provisions of the Convention.

The Committee hopes that the above texts will be adopted in the very near future and that they will give effect to the Convention. It requests the Government to supply a copy of these texts when they have been adopted.

* * *

A request regarding certain points is being addressed directly to the United Republic of Tanzania.

Convention No. 135: Workers' Representatives, 1971

Sri Lanka (ratification: 1976)

The Committee notes the comments of the Ceylon Federation of Trade Unions dated 10 October 1990 alleging that workers' representatives need adequate legal protection to discharge their duties as such. It also notes the Government's reply to these comments.

The Federation indicates that workers' representatives' functions become impossible to carry out when the Government declares a state of emergency and prohibits the holding of union meetings, the distribution of union leaflets or any other trade union manifestations.

The Committee notes that, according to the Government, article 14 of the national Constitution guarantees the exercise of fundamental rights subject to restrictions in times of public disorder. Such restrictions are imposed on the holding of meetings, the distribution of leaflets and the conducting of processions. The Committee also notes that the Government stresses the exceptional situation which has prevailed in Sri Lanka over the past few years.

The Committee would first note the wide-ranging restrictions contained in the Emergency (prevention of subversive political activity) Regulations No. 1 of 6 January 1990 which ban "any activity, political or otherwise, ... designed to adversely affect the due functioning of such workplace", any meeting or procession and the posting of any posters or signs, the penalty for non-compliance being imprisonment for a term of not less than three months and not exceeding five years and a fine of not less than 500 rupees and not exceeding 5,000 rupees. The Committee considers, as indicated by the Ceylon Federation of Trade Unions, that the day-to-day functioning of workers' representatives in undertakings has been impaired by the Emergency Regulations contrary to Article 2 of the Convention. The Committee, while taking into account the Government's justification for these restrictions on the rights of workers' representatives in the undertaking, would point out that the Convention makes no provision for derogation in times of civil unrest. At the same time, the Committee recalls that the ILO supervisory bodies have in similar exceptional factual situations accepted such restrictions as long as they are imposed for a limited period of time and are limited to the geographical areas directly affected by hostilities or public disorder. Once such an acute emergency has subsided, bans or

restrictions under state of emergency legislation should immediately be lifted.

Accordingly, the Committee trusts that the Government's next report (due next year) will contain information on the lifting of the emergency restrictions on the functioning and facilities available to workers' representatives in the undertaking.

As regards the comments of the Lanka Jathika Estate Workers' Union dated 4 December 1989, see the Committee's observation under Convention No. 98.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Greece, Rwanda, Republic of Yemen (North Yemen).

Convention No. 136: Benzene, 1971

Zambia (ratification: 1973)

1. Statutory rules and orders to be made. In comments made for a number of years, the Committee has noted the absence of provisions giving effect to several important requirements of the Convention. Since 1979, the Government has referred to a planned general survey of working places where benzene is used; in its 1985 report, the Government indicated that this survey was to provide the information necessary for the full application of the Convention. The Committee notes with interest the Government's indication in its latest report that a general survey of the automobile industry where solvents are used has now been carried out with the assistance of the Zambia State Insurance Corporation Limited. The Committee accordingly hopes that the necessary measures will soon be taken to amend and supplement the Factories (Benzene) Regulations, 1978 so as to give effect to the following provisions of the Convention:

(a) Articles 4 and 7 of the Convention. Under Article 7 of the Convention, work processes involving the use of benzene or products containing benzene shall be carried out in an enclosed system as far as practicable, and where this is not practicable, the workplace shall be equipped with effective means to ensure the removal of benzene vapour. In the absence of such means of protection, the use of benzene and of products containing benzene shall be prohibited under Article 4, at least as a solvent or diluent. The Committee previously noted that Regulation 3 of the Factories (Benzene) Regulations, 1978 does not prohibit the use of benzene or products containing benzene but merely requires their replacement "whenever harmless or less harmful substitute products are available"; Regulation 7 apparently follows the language of article 7 of the Convention, except that it refers to "an enclosed area" instead of an enclosed system. The Committee recalls the Government's indications in its reports received in 1979 and 1985 that, in order to protect workers from harmful contaminants, Regulation 7 needed to be amended so as to read

"enclosed system" instead of "enclosed area", and that this amendment would be introduced into paragraphs (1) and (2) of Regulation 7 after the general survey of working places was carried out. Consequently, this should now be done.

(b) Article 6, paragraph 3. Under Article 6, paragraph 2 of the Convention, the employer shall ensure that the concentration of benzene in the air of the places of employment does not exceed a ceiling value of 25 parts per million (80 mg/m³), and under paragraph 3, the competent authority shall issue directions on carrying out the measurement of the concentration of benzene in the air of places of employment. In its report received in 1979, the Government indicated that these directions would be given after carrying out the survey of working places where benzene may be still in use. The Committee notes the Government's indication in its latest report that, at the time of the visits to workplaces, the competent authority has been unable to carry out monitoring, and no measurements were taken due to lack of equipment. The Committee must point out that the responsibility for keeping the concentration of benzene in the air within the limits allowed under Article 6, paragraph 2 is to rest with the employer; it follows that the measurement mentioned in Article 6, paragraph 3 is also to be ensured by the employer, under directions to be issued by the competent authority. The Committee accordingly hopes that the necessary instructions will now be issued.

(c) Article 8, paragraph 2. Under this provision, workers who for special reasons may be exposed to concentrations of benzene in the air of places of employment which exceed the maximum referred to in Article 6, paragraph 2 shall be provided with adequate means of personal protection against the risk of inhaling benzene vapour. This is also called for by Regulation 9 of the Factories (Benzene) Regulations, 1978. However, Article 8, paragraph 2 moreover provides that the duration of exposure shall be limited as far as possible. In its report received in 1979, the Government indicated that to date no cases of employment which exceeded the maximum allowable concentration had been reported; however, when the survey was complete, where appropriate, the duration of exposure to high concentrations would have to be set. The Committee notes that at the time of the survey, the concentration of benzene could not be measured in the absence of the necessary equipment; it accordingly hopes that the competent authority will now, besides issuing the necessary instructions for measurement already referred to under Article 6, paragraph 3, also set appropriate limits to the duration of exposure to high concentrations of benzene in the air.

2. Application in practice and enforcement of the Convention. Under Article 14(a) of the Convention, the Government shall take such steps as may be necessary to give effect to the provisions of the Convention and, under Article 14(c), appropriate inspection is to be carried out. The Committee notes with interest that the general survey of the automobile industry carried out with the help of the Zambia State Insurance Corporation involved 40 motor vehicle repair workshops, where the inspection teams inspected spray painting booths and paint storage facilities. The Committee notes that the inspection teams gave advice on mechanical exhaust ventilation systems and hazards associated with the use of solvents including benzene, advised

the factory occupiers not to use benzene as provided in the Factories (Benzene) Regulations, and advocated the use of enclosures, mechanical exhaust systems and, in the last resort, personal protective equipment, as provided by the Regulations. The Committee, however, observes that the inspection teams, hampered as they were by the absence of measuring equipment, appear not to have been in a position to enforce, where necessary, the application of the relevant regulations. Moreover, working places where benzene may be used outside the 40 motor vehicle repair shops included in the survey appear not to have been inspected. In this connection, the Committee also recalls the Government's indication in its report received in 1985 that medical examinations are carried out at one paint manufacturing factory; however, Article 9, paragraph 1, of the Convention as well as Regulation 14 of the Factories (Benzene) Regulations, 1978 provide for pre-employment medical examination and periodical re-examination of every person employed in processes involving exposure to benzene or products containing benzene. The Committee hopes that the necessary measures will be taken to improve the application in practice and enforcement of provisions designed to give effect to the Convention, including provisions for the medical examination of all workers concerned and the inspection of all workplaces where workers may be exposed to benzene or to products containing benzene, and that the Government will report on the action taken.

Convention No. 137: Dock Work, 1973

Requests regarding certain points are being addressed directly to the following States: Afghanistan, United Republic of Tanzania.

Convention No. 138: Minimum Age, 1973

Requests regarding certain points are being addressed directly to the following States: Antigua and Barbuda, Dominica, Greece, Honduras.

Convention No. 139: Occupational Cancer, 1974

Guinea (ratification: 1976)

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

In earlier comments, the Committee had noted that no specific measures had been taken since the Convention was ratified to prevent and control occupational cancer in accordance with the Convention.

The Committee noted 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 had 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 had expressed the hope that concrete progress in this respect would be reported prior to the meeting of this Committee in 1990.

The Committee understood that ILO technical assistance should occur prior to the International Labour Conference in June 1990 and hoped that, with this assistance, the Government would be able to take, in the very near future, the necessary steps for the application of the Convention in law and in practice.

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 report in detail for the period ending 30 June 1991.]

* * *

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

Convention No. 140: Paid Educational Leave, 1974

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Guinea, Guyana, Iraq, Kenya, Netherlands, San Marino, Spain, United Republic of Tanzania, Yugoslavia.

Information supplied by the United Kingdom 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 being addressed directly to Afghanistan.

Convention No. 142: Human Resources Development, 1975

Requests regarding certain points are being addressed directly to the following States: France, Yugoslavia.

Convention No. 143: Migrant Workers (Supplementary Provisions), 1975Cyprus (ratification: 1977)

Further to its previous comments, the Committee notes with satisfaction the adoption of the Aliens and Immigration (Amending) Act, No. 197 of 1987, which provides that in case of expulsion of a worker, or the worker's spouse or children, the cost shall not be borne by them, thus giving effect to Article 9, paragraph 3, of the Convention.

Italy (ratification: 1981)

Part II of the Convention. The Committee notes the information supplied by the Government in its last report, and in particular the recent amendment of Act No. 943/86, which was revised by Act No. 36 of 28 February 1990 to amend the Legislative Decree of 4 June 1989. It notes that Act No. 36 makes provision for the acceleration of procedures to regularise the situation of migrant workers who do not originate from a member State of the EC, for their social and occupational integration and for their access to employment under the same conditions as those applying to Italian workers. It also notes that a department has recently been set up under the General Directorate of Employment to give effect to these rights, and that a national commission has been set up with the participation of the various trade union organisations in order to deal with the problems of non-EC immigrant workers and their families. The Committee also notes the First National Conference on Immigration, held in Rome in June, and the effect that it may have had on increasing the support of public opinion and the social partners for the national policy of equality of opportunity and treatment. It also notes a series of research projects on immigration in Italy and on the new social problems related to immigration. The Committee hopes that the Government will communicate the results of this research.

The Committee requests the Government to continue supplying information on any measure that is taken concerning migrant workers, in the context of its policy of equality of opportunity and treatment.

The Committee notes the information supplied by the Government in reply to its direct request.

Kenya (ratification: 1979)

Article 14(a) of the Convention. For some years, the Committee has been drawing the Government's attention to the need to ensure in law and in practice the application of this provision, which authorises restrictions on the free choice of employment only during an initial period of residence not exceeding two years; at the end of that period migrant workers should have the free choice of employment. In its last report, the Government again indicates that the free choice of employment of migrant workers depends on the Government's discretion in the framework of its localisation policy.

Since this approach to the free choice of employment of migrant workers is in conflict with the Convention, the Committee once again requests the Government to take appropriate measures to ensure that the legislation and national practice give full effect to the Convention on this point. It also requests the Government to report any progress accomplished in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Benin, Burkina Faso, Cameroon, Guinea, Portugal, San Marino, Uganda, Venezuela.

**Convention No. 144: Tripartite Consultation (International Labour Standards)
1976**

Bahamas (ratification: 1979)

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

The Committee recalls that 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.

Greece (ratification: 1981)

The Committee takes note of the Government's report for the period 1988-90, which indicates that no legislative, administrative or other measures have been taken with regard to the application of the Convention during the period in question. This situation has repeatedly been the subject of the Committee's comments since the Government's first reports which referred to a draft Decree establishing a procedure to be followed to promote the implementation of international labour standards. The Committee notes that this matter has been brought to the attention of the new Government and hopes that the Government will very shortly take the necessary steps to ensure that full effect is given to the Convention.

The Committee is addressing a new direct request to the Government asking for detailed information on a number of questions in this connection.

Nicaragua (ratification: 1967)

The Committee takes note of the report presented by the Commission of Inquiry established in accordance with article 26 of the ILO Constitution to examine the complaint against Nicaragua concerning the application of Conventions Nos. 87, 98 and 144. The Committee notes in particular that in paragraph 546 of its recommendations the Commission of Inquiry considers that the Government should indicate, as from 1991, in its reports submitted under article 22 of the Constitution, the measures taken in law and in practice to give effect to its recommendations on the application of these Conventions during the period in question.

Consequently, the Committee asks the Government to provide detailed information on the measures taken to give effect to the recommendations of the Commission of Inquiry.

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

Spain (ratification: 1983)

With reference to its previous observation, the Committee notes the Government's report on the application of the Convention, particularly as regards the measures taken to give effect to Article 5, paragraph 1(d), of the Convention concerning consultations on the reports made under article 22 of the ILO Constitution. It also notes the comments made by the General Union of Workers (UGT). The UGT alleges, in the first place, that the procedure of holding consultations by means of written communications, which is currently being used, was decided upon unilaterally by the Government without prior consultation with the representative organisations of employers and workers, as required by Article 2, paragraph 2. The trade union organisation also states that no arrangement has been made, in accordance with Article 4, paragraph 2, between the competent authority and the representative organisations for the financing of

any necessary training of participants in consultation procedures. Finally, the UGT considers that consultations on the points set out in Article 5, paragraph 1, are held in a summary manner and generally within too short a period, and that paragraph 2 of the same Article is not given effect in practice since the frequency of these consultations is left for the Government to fix alone.

The Committee would be grateful if the Government would supply the Office with information containing replies to these allegations.

[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, Austria, Bangladesh, Barbados, Costa Rica, Côte d'Ivoire, France, Greece, Guyana, Malawi, Mexico, Portugal, Sierra Leone, United Republic of Tanzania, Togo, United States, Uruguay, Venezuela.

Information supplied by Iraq and New Zealand in answer to a direct request has been noted by the Committee.

Convention No. 145: Continuity of Employment (Seafarers), 1976

Requests regarding certain points are being addressed directly to the following States: Costa Rica, Egypt, France, Italy, Netherlands.

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

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

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

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

Costa Rica (ratification: 1981)

Further to its previous comments, the Committee notes that the Government's report again explains that there is no merchant fleet in Costa Rica, but that efforts are being made to establish detailed regulations on various matters dealt with in the Convention. The Committee is referring to such details in a new direct request.

The Committee recalls meanwhile that certain provisions of the Convention relate to employment on foreign-registered ships (notably Article 2(d)(ii) and Article 3 concerning engagement procedures within the territory; and Article 4 concerning port state action). It hopes

the Government will have due regard to these provisions and supply details of all steps taken to implement them.

Article 5, paragraph 1, provides that the Convention is open to ratification by States which are parties to certain instruments of the International Maritime Organization (IMO). The Committee recalls that, under paragraph 2, a State which, like Costa Rica, is not already a party to the IMO instruments listed in paragraph 1 may ratify the Convention if it gives an undertaking to fulfil the requirements of paragraph 1. Although such an undertaking was duly given by the Government, and the Government earlier indicated the matter has been examined, the Committee would be grateful if the Government would indicate in the near future the measures taken to implement its undertaking in this respect.

Liberia (ratification: 1981)

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, 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.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Egypt, Italy, Japan, Liberia.

**Convention No. 148: Working Environment (Air Pollution, Noise and Vibration),
1977**

Costa Rica (ratification: 1981)

The Committee notes that the report received from the Government does not respond to the comments made in its previous direct request. It hopes that the Government will soon supply full information on the following matters which were raised in its previous comments for several years now.

1. The Committee had noted from the Government's report for the period ending 30 June 1987 that the National Council for Occupational Health had undergone a reorganisation in order to improve occupational health and safety conditions and to create inter-institutional commissions with the aim of developing technical occupational health and safety standards. The Government had aimed at, inter alia, promoting the application of certain provisions of the Convention. The Committee requests the Government to provide information in its next report on the activities of the National Council for Occupational Health and the progress made towards ensuring application of the Convention.

2. The Committee also noted that the draft regulations, to which the Government had made reference in its report for the period ending 30 June 1985, were in the course of being substantially revised. The Committee expressed the hope that the Government would be able to indicate in detail the progress made on the adoption of such regulations and standards and that full effect would be given to the following Articles of the Convention: Article 4, paragraph 2 (adoption of supplementary technical standards for the practical implementation of laws and regulations); Article 8, paragraphs 1 and 3 (establishment and regular revision of the criteria and exposure limits for all hazards covered by the Convention and in particular air pollution and vibrations at the workplace); Article 9 (adoption of technical measures or supplementary organisational measures for the protection of workers against hazards due to air pollution).

3. The Government is also requested to indicate the steps taken to ensure that pre-assignment and periodical medical examinations are provided to workers without cost in accordance with Article 11, paragraphs 1 and 2 of the Convention.

4. The Government had indicated in its report for the period ending June 1985 that a list of dangerous substances was being prepared as part of the National Occupational Safety Plan (1985-90). The Government is requested to indicate whether the list of dangerous substances provided for in the National Plan has been established and, if so, to supply a copy of the list and to indicate how applications for authorisation to use the substances on this list, as well as other dangerous processes or materials, are submitted to the competent authority in accordance with Article 12 of the Convention. The Government is also requested to indicate whether any such substance, process or material has been prohibited or regulated by the competent authority.

United Kingdom (ratification: 1979)

With reference to its previous comments, the Committee notes with satisfaction from the Government's report the adoption and entry into force on 1 October 1989 in Great Britain of the Control of Substances Hazardous to Health (COSHH) Regulations 1988, which introduce a comprehensive and systematic approach to the control of hazardous substances at work, and, inter alia, set forth maximum exposure limits and provide for health surveillance, including periodic medical and biological monitoring in prescribed circumstances and the monitoring of exposure to substances hazardous to health by persons having the necessary information, instruction and training. Thus, these regulations are to provide better legislative backing for the implementation of Articles 8 and 15 of the Convention in respect of air pollution.

The Committee notes the Government's indication in its report that the Control of Substances Hazardous to Health (Northern Ireland) regulations would be made in 1990 and that these regulations would mirror the provisions contained in the Great Britain COSHH Regulations. The Government is requested to indicate whether the Northern Ireland Regulations for the Control of Substances Hazardous to Health are now in force and to transmit a copy to the Office as soon as the Regulations have been adopted.

The Committee is raising other points in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Egypt, Ecuador, France, United Republic of Tanzania, United Kingdom, Yugoslavia.

Convention No. 149: Nursing Personnel, 1977

Requests regarding certain points are being addressed directly to the following States: Congo, Ecuador, France, Ghana, Guinea, Guyana, United Republic of Tanzania, Venezuela, Zambia.

Convention No. 150: Labour Administration, 1978Germany (ratification: 1981)

1. Articles 2 and 4 of the Convention. The Committee notes the information provided in reply to its previous direct requests. It hopes future reports will continue to supply details of labour administration in various sectors and at various levels.

2. The Committee notes the observations made by the German Trade Union Federation (DGB). The DGB alleges that the Government has damaged the effectiveness of the Federal Institution for Labour (BA)

in areas such as employment creation, job counselling and placement by using funds allocated to it to pay the costs of integration of immigrants and refugees, which should be borne by general taxation. The role of private agencies in these fields has increased, according to the DGB, resulting in unequal competition.

3. The Government considers increased encouragement of job creation measures of labour market policy falls within the competence of the BA. It points to an increase in the numbers taking part in advanced vocational training programmes as indicating that the funds allocated are sufficient. The Government points out that the budget appropriations for job creation in 1991 are doubled. With respect to the expansion of opportunities for employment counsellors to co-operate in making appointments to managerial positions in enterprises, the Government indicates that the changes were made because of the changed circumstances in the labour market and that the role of these employment counsellors is limited by new guidelines. As regards "hirers", the Government notes that they are not in competition with the placement services of the BA.

The Committee notes these observations and asks the Government to keep providing information on developments in this matter.

Spain (ratification: 1982)

The Committee notes the observations made by the General Union of Workers (UGT) concerning the application of Article 5, paragraph 1, of the Convention. According to the UGT, the necessary consultation, co-operation and negotiation do not take place in the determination of basic national labour policy: participation of the social partners occurs only after basic policies are determined. The UGT calls for changes in the system of "institutional participation" in order to achieve the aim of the Convention, which is to involve employers' and workers' representatives in the labour administration.

The Committee would be grateful if the Government would give its views on this matter in its next report.

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

Venezuela (ratification: 1983)

The Committee notes the Government's brief report. It also notes the observation provided by the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS). These concern what FEDECAMARAS perceives as inadequacies in the degree of consultation and co-operation with and between employers' and workers' organisations as to labour legislation and practices, as required by Articles 3, 5 and 6(c) and (d) of the Convention; the establishment of an efficient system of labour administration (Article 4); and the training, status and resources of labour administration staff (Article 10). The Committee would be glad if the Government would

indicate its own views in this respect and any further measures taken or proposed.

[The Government is asked to report in detail for the period ending 30 June 1992.]

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In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Congo, Costa Rica, Greece, Guyana, Italy, San Marino, Suriname, Zaire, Zambia.

Information supplied by Australia, Cyprus, Finland, Gabon and Netherlands in answer to a direct request has been noted by the Committee.

Convention No. 151: Labour Relations (Public Service), 1978

Peru (ratification: 1980)

See the comments on the right to organise of public servants under Convention No. 87.

Portugal (ratification: 1981)

The Committee takes note of the comments on the application of the Convention submitted by the National Federation of Teachers (FENPROF) and the State Technical Supervisors' Trade Union (STE) in communications dated 4 December 1989 and 29 August 1990, respectively, and of the Government's observations on them.

FENPROF indicates that on 31 May 1988 the Ministry of Education presented for negotiation a preliminary draft of the conditions of employment of infant, primary and secondary school teachers, which was contested by the Federation because certain chapters were missing. The lack of any reply from the Government prompted a series of strikes, which led to the opening of negotiations with the Ministry of Education one year later on these conditions of employment and wage rates. The Government presented, through the State Secretariat for the Modernisation of the Administration (SEMA), a proposal for wage rates, which was not in keeping with the negotiations being conducted with the Ministry of Education; this meant that FENPROF was facing two government negotiating representatives with different ideas on the same subject. The same situation arose again: in June 1989 the Government went on record in the minutes of a meeting as undertaking to align teachers' wages with those of other public administration employees; subsequently, the SEMA presented a counter-proposal for wage rates which was not consistent with the Government's commitment to implement a new remuneration system. In October 1989 the Government convened a meeting with FENPROF to conclude negotiations on the above-mentioned conditions of employment and remuneration of teachers, at which the Government presented a new proposal which, in its view, would fully settle all the points recorded in the minutes of

the June 1989 meeting. On 26 October 1989, the Government approved a Legislative Decree setting out the wage rates and the structure of the public administration without any prior negotiations and in disregard of its previous commitments. FENPROF therefore considers that the Government has infringed the provisions of the Convention, as well as article 56 of the Portuguese Constitution, and section 5 of Legislative Decree No. 45-A/84 of 3 February 1984.

The Government considers that in applying the provisions of Legislative Decree No. 45-A/84, it has not infringed the Convention. It explains that, when the conditions of employment of teachers (other than those in higher education) were being drafted, the representative teachers' organisations were called upon to exercise their right to participation and consultation in accordance with the law. The question of remuneration was not dealt with initially and FENPROF was informed that the reason for this was that the conclusion of the work of the Study Commission on the Public Service Remuneration System was being awaited. The negotiation process began in 1988 with the participation of FENPROF and an agreement was reached on the principles of the new wage system for teachers. As for FENPROF's demand for a single government negotiating representative, this was not possible as wage negotiations fall within the scope of the reform of the public service remuneration system, which is the responsibility of the SEMA with which FENPROF met on several occasions. The consultation process gave rise to various proposals aimed at finding a consensus; FENPROF did not exercise its right to request further negotiations as provided for in section 8 of Legislative Decree No. 45-A/84 for the settlement of disputes arising during the negotiating process, although agreements had been concluded in October with other trade union organisations.

For its part, the STE indicates that it took part in a negotiation process with the Government in 1989 in order to increase public service efficiency vis-à-vis other sectors and to achieve greater equity within the service through a new remuneration system, which is reflected in Legislative Decree No. 353-A/89 of 16 October 1989. This Legislative Decree provides, on the one hand, for vertical promotion subject to posts vacant and the period spent in the category and, on the other hand, horizontal advancement (called "grading") according to seniority within the category. It also provides for a time frame for the implementation of the transitional scheme, which establishes January 1992 as the date of entry into force. According to the STE, the various negotiation documents submitted by the Government concerning remuneration and promotion in the public administration failed to take account of certain points put forward by the STE in a counter-proposal, and left aside the general principles which had been the basis for the negotiations. In an effort to reach agreement, the STE presented another proposal which was similar to the Government's proposal, whereas the Government made a counter-proposal whose terms were less favourable than those of its initial one. The STE has persisted in attempting to strike an agreement, but claims the Government's attitude made this difficult because it refused further negotiations for which government approval is needed (section 8 of Legislative Decree No. 45-A/84). This thus infringes Articles 7 and 8 of the Convention.

The Government replies that it presented several negotiating proposals to the union, in accordance with the procedure agreed upon by all the trade union organisations according to which other issues relating to wages would not be included in the negotiations on the salary scales (section 4 of Legislative Decree No. 45-A/84). The STE participated actively throughout the negotiations making several counter-proposals including new elements (seniority, for example) which had already been taken into account by the Government, thereby introducing the same demand a second time which would imply double the cost for the Government. The Government presented other proposals to the STE in an attempt to close the gap between the two positions; the STE responded with a counter-proposal and a request for further negotiations under section 8 of Legislative Decree No. 45-A/84. The Government considered this pointless as such a claim was incompatible with the Government's known budgetary limitations.

With regard to the communication from FENPROF, the Committee observes that there was a long process of negotiation, which included negotiations with the SEMA, in search of an agreement as wage negotiations fall within the scope of the reform of the public service remuneration system. The Committee therefore considers that if FENPROF did not exercise its right to request further negotiations as it could have done under section 8 of the legislation in force, there is no evidence that the Convention has been infringed.

As regards the STE communication, however, it appears that while lengthy negotiations took place in an attempt to narrow the gap between the positions of the two parties, the Government refused to follow up the STE's request for further negotiations, considering it would be pointless to do so as the latter's position was incompatible with the Government's known budgetary limitations. In this connection, the Committee recalls, as does the Committee on Freedom of Association (Case No. 1365, 248th Report), that it has already considered the procedure chosen in Portuguese law to resolve disputes in the public service, namely further negotiations, to be in conformity with the Convention. The parties to the negotiations - the Government and trade union organisations - must nevertheless maintain an attitude of good faith throughout this procedure, on the basis of which the Government should open further negotiations with the purpose of attempting to reach an agreement.

* * *

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

Information supplied by Ghana 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: France, Iraq.

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, 1981Norway (ratification: 1982)

The Committee takes note of the information supplied by the Government in reply to its previous observation, in particular its clarification of the use of ad hoc compulsory arbitration to settle disputes during deadlocks in negotiations in accordance with the requirements of Article 5 of the Convention.

It also notes that, from February 1988 to March 1990, three "Temporary Pay and Dividends Regulations" Acts (covering both private and public sectors) were adopted successively as part of the Government's wage policy schemes. The Government's report explains that collective bargaining between the most representative organisations took place first and was not influenced by the Acts. The various negotiated agreements formed a pattern which the regulation Acts followed because - as the large workers' and employers' organisations themselves realised - their settlement favouring moderate wage increases would be difficult to achieve if groups outside the central wage structure tried to exceed the agreed economic conditions. In view of this explanation, in particular that the most representative workers' and employers' organisations recognised the need for limited control, and given that the most recent Temporary Act ceased operation on 31 March 1990, the Committee considers that these measures no longer conflict with Article 5(1).

Spain (ratification: 1985)

The Committee takes note of the comments made by the Trade Union Confederation of Workers' Committees (CC.OO) in communications dated 12 September 1989 and 26 February 1990, concerning the application of the Convention and the Government's replies to them received on 9 March and 3 May 1990.

The Committee also notes with interest the adoption of Act No. 7/1990 of 19 July 1990 concerning collective bargaining and participation in determining the working conditions of public employees, which amends Chapter III of Act No. 9/1987 of 12 June 1987, respecting representative bodies, determination of working conditions and participation of staff in the service of the public authorities. The Committee observes that under section 32 of Act No. 7/1990 the increase in the remuneration of public employees and the statutory personnel in the service of the public authorities, which is to be included in the draft General State Budget each year, and the increase in the remuneration of the personnel of the Autonomous Community and

local authorities to be established in their respective draft budgets, shall be the subject of negotiations given the scope and attributions of the public authorities involved.

In its 1989 observation, the Committee pointed out that on ratifying the Convention, the Government undertook to adopt measures adapted to national conditions to promote collective bargaining for determining working conditions and terms of employment and regulating relations between employers and workers and between organisations of employers and of workers, and that as regards the public service, the Convention states that special modalities of application may be fixed (Articles 1, 2 and 5 of the Convention).

In these circumstances, the Committee considered that in so far as the income of the public enterprises and bodies depends on state budgets, it would not be objectionable - after wide discussion and consultation between the concerned employers and employees' organisations in a system having the confidence of the parties - for wage ceilings to be fixed in state budgetary laws, and that neither would it be a matter for criticism that the Ministry of Economy and Finance prepare a report prior to the commencement of collective bargaining with a view to ensuring respect of such ceilings.

The Committee wishes to point out that Article 1, paragraph 3 of the Convention provides that, as regards the public service, special modalities of application of the Convention may be fixed by national laws or regulations or national practice. This provision does not affect the basic obligations deriving from the Convention, but provides that in meeting these obligations with regard to the public service it is possible to fix special modalities.

In conclusion, it appears to the Committee that a system has been established which is acceptable as a modality of application of the Convention because it provides for wide discussion and consultation between the parties concerned. The Committee considers that this system has been strengthened and improved by the adoption of Act No. 7/1990.

* * *

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

Convention No. 155: Occupational Safety and Health, 1981

Requests regarding certain points are being addressed directly to the following States: Sweden, Venezuela.

Convention No. 156: Workers with Family Responsibilities, 1981

Requests regarding certain points are being addressed directly to the following States: Niger, Peru, Sweden, Venezuela, Yugoslavia.

Convention No. 158: Termination of Employment, 1982

Requests regarding certain points are being addressed directly to the following States: Cameroon, Malawi, Yugoslavia, Zaire.

**Convention No. 159: Vocational Rehabilitation and Employment
(Disabled Persons), 1983**

Requests regarding certain points are being addressed directly to the following States: Cyprus, El Salvador, Greece, Yugoslavia.

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

Convention No. 160: Labour Statistics, 1985

Requests regarding certain points are being addressed directly to the following States: Australia, Cyprus, Finland, United Kingdom.

**Convention No. 161: Occupational Health Services, 1985
Convention No. 162: Asbestos, 1986**

Requests regarding certain points are being addressed directly to the following States: Finland, Hungary.

Appendix I. Receipt of Detailed Reports on Ratified Conventions as at 20 March 1991

(Article 22 of the Constitution)

| State Member | Reports received | | Reports not received | | Grand total |
|---------------------|------------------|---|----------------------|----------------------|-------------|
| | Total | Conventions Nos. | Total | Conventions Nos. | |
| GRAND TOTAL | 1409 | | 549 | | 1958 |
| AFGHANISTAN | 9 | 14 41 45 95 105 106 111 140 141 | 0 | | 9 |
| ALGERIA | 22 | 11 13 14 24 42 44 56 62 71 77 78 87 94 95 97 98 101 111 119 122 127 150 | 0 | | 22 |
| ANGOLA | 0 | | 5 | 14 98 106 107 111 | 5 |
| ANTIGUA AND BARBUDA | 14 | 11 12 14 17 29 81 87 94 98 101 105 108 111 138 | 0 | | 14 |
| ARGENTINA | 17 | 8 11 14 22 23 52 71 77 78 87 95 98 107 115 124 144 156 | 1 | 111 | 18 |
| AUSTRALIA | 6 | 22 87 98 111 122 150 | 3 | 8 11 144 | 9 |
| AUSTRIA | 13 | 11 24 25 87 94 95 98 101 103 111 122 124 144 | 0 | | 13 |
| BAHAMAS | 11 | 11 14 22 42 94 95 97 98 105 117 144 | 0 | | 11 |
| BAHRAIN | 3 | 29 81 89 | 1 | 14 | 4 |
| BANGLADESH | 11 | 11 14 22 27 29 87 98 106 107 111 144 | 0 | | 11 |
| BARBADOS | 12 | 11 22 87 94 95 97 98 101 111 115 122 144 | 0 | | 12 |
| BELGIUM | 24 | 8 11 14 22 23 55 56 77 87 94 95 97 98 101 105 111 114 115 122 124 138 144 149 154 | 2 | 82 107 | 26 |

REPORT OF THE COMMITTEE OF EXPERTS

| State Member | Reports received | | Reports not received | | Grand total |
|---------------------------|------------------|--|----------------------|--|-------------|
| | Total | Conventions Nos. | Total | Conventions Nos. | |
| BELIZE | 10 | 8 11 22 87 94 95 97 98 101 115 | 0 | | 10 |
| BENIN | 0 | | 8 | 11 14 85 87 95 98 111 143 | 8 |
| BOLIVIA | 10 | 1 14 20 30 77 78 87 98 106 107 | 8 | 95 111 117 121 122 124 128 130 | 18 |
| BOTSWANA | 1 | 14 | 0 | | 1 |
| BRAZIL | 28 | 6 11 12 14 22 42 52 53 88 94 95 97 98 101 105 106 107 108 111 113 115 117 120 122 124 125 127 131 | 0 | | 28 |
| BULGARIA | 21 | 8 11 14 22 23 24 25 44 52 55 56 71 77 78 87 94 95 98 106 111 124 | 0 | | 21 |
| BURKINA FASO | 0 | | 10 | 11 14 87 95 97 98 111 132 143 150 | 10 |
| BURUNDI | 5 | 11 14 52 94 101 | 0 | | 5 |
| BYELORUSSIAN SSR | 15 | 11 14 27 52 77 78 87 95 98 100 106 111 115 122 124 | 0 | | 15 |
| CAMBODIA | 0 | | 5 | 4 6 13 29 122 | 5 |
| CAMEROON | 15 | 11 14 77 78 87 94 95 97 98 106 111 122 132 143 158 | 0 | | 15 |
| CANADA | 7 | 8 14 22 87 111 122 162 | 0 | | 7 |
| CAPE VERDE | 0 | | 2 | 98 111 | 2 |
| CENTRAL AFRICAN RE-PUBLIC | 0 | | 13 | 11 14 41 52 62 87 94 95 98 101 111 117 118 | 13 |
| CHAD | 7 | 11 14 52 87 95 98 111 | 0 | | 7 |
| CHILE | 11 | 8 9 11 14 22 24 25 35 37 111 122 | 0 | | 11 |
| CHINA | 6 | 11 14 22 23 27 159 | 0 | | 6 |
| COLOMBIA | 5 | 1 3 8 24 111 | 12 | 11 14 22 23 25 52 87 95 98 101 106 107 | 17 |

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

| <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> | |
| COMOROS | 20 | 6 11 12 14 17 29 42 52 77 78 81 87 89 95 98 100 101 105 106 122 | 0 | | 20 |
| CONGO | 8 | 6 11 14 87 89 95 150 152 | 0 | | 8 |
| COSTA RICA | 21 | 1 11 14 87 94 95 98 101 102 106 107 111 114 117 122 130 144 145 147 148 150 | 0 | | 21 |
| COTE D'IVOIRE | 9 | 11 14 52 87 95 98 111 129 144 | 0 | | 9 |
| CUBA | 21 | 8 11 14 22 23 52 77 78 87 94 95 97 98 101 106 107 111 122 140 145 150 | 0 | | 21 |
| CYPRUS | 16 | 11 44 87 94 95 97 98 106 111 114 119 122 124 143 144 150 | 0 | | 16 |
| CZECHOSLOVAKIA | 16 | 11 14 52 77 78 87 98 111 115 122 124 130 140 155 160 161 | 0 | | 16 |
| DENMARK | 20 | 8 11 14 52 87 88 94 98 102 106 108 111 115 122 130 142 144 148 150 160 | 0 | | 20 |
| DJIBOUTI | 0 | | 23 | 11 14 18 22 23 24 44 52 55 56 71 77 78 87 88 94 95 98 101 106 115 122 124 | 23 |
| DOMINICA | 4 | 8 95 111 138 | 7 | 11 14 22 87 94 97 98 | 11 |
| DOMINICAN REPUBLIC | 14 | 29 45 52 77 79 87 90 95 98 100 105 106 107 111 | 0 | | 14 |

REPORT OF THE COMMITTEE OF EXPERTS

| State Member | Reports received | | Reports not received | | Grand total |
|-------------------|------------------|---|----------------------|--|-------------|
| | Total | Conventions Nos. | Total | Conventions Nos. | |
| ECUADOR | 20 | 11 77 78 87 95 97 98 101 103 106 107 111 114 115 117 121 122 124 130 144 | 3 | 152 153 159 | 23 |
| EGYPT | 24 | 11 14 22 23 52 55 56 71 87 92 94 95 98 101 106 107 111 115 144 145 147 148 152 159 | 0 | | 24 |
| EL SALVADOR | 0 | | 1 | 107 | 1 |
| EQUATORIAL GUINEA | 3 | 14 30 103 | 0 | | 3 |
| ETHIOPIA | 4 | 11 87 98 111 | 0 | | 4 |
| FIJI | 4 | 8 11 84 98 | 0 | | 4 |
| FINLAND | 17 | 8 11 14 22 87 91 94 98 111 115 122 124 130 144 145 150 162 | 0 | | 17 |
| FRANCE | 28 | 8 11 14 22 23 24 35 36 37 38 44 52 55 56 71 90 97 98 101 106 111 114 115 122 129 144 145 149 | 15 | 27 77 78 81 82 87 88 94 95 124 137 140 142 148 152 | 43 |
| GABON | 12 | 11 14 95 98 105 106 111 124 144 150 154 158 | 3 | 52 87 101 | 15 |
| GERMANY | 21 | 3 8 11 22 23 53 56 87 97 98 111 114 115 122 125 128 130 132 140 144 150 | 0 | | 21 |
| GHANA | 25 | 1 8 11 14 22 23 45 58 87 88 90 92 94 98 103 106 107 108 111 115 117 119 120 150 151 | 2 | 148 149 | 27 |
| GREECE | 20 | 8 11 14 23 42 52 55 71 77 78 92 95 98 106 115 124 135 138 144 156 | 6 | 29 87 102 111 122 150 | 26 |
| GRENADA | 0 | | 16 | 5 8 10 11 12 14 16 19 29 81 94 95 97 98 105 108 | 16 |

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

| State Member | Reports received | | Reports not received | | Grand total |
|-----------------------|------------------|---|----------------------|---|-------------|
| | Total | Conventions Nos. | Total | Conventions Nos. | |
| GUATEMALA | 18 | 11 14 15 16 77 78 87 94 95 97 98 101 104 106 111 114 122 131 | 0 | | 18 |
| GUINEA | 0 | | 18 | 11 14 87 94 95 98 111 114 115 117 118 122 132 139 140 143 150 151 | 18 |
| GUINEA-BISSAU | 0 | | 6 | 14 18 98 106 107 111 | 6 |
| GUYANA | 0 | | 21 | 2 7 11 12 29 42 45 87 94 95 97 98 105 108 111 115 140 141 144 149 150 | 21 |
| HAITI | 15 | 1 12 14 17 24 25 30 77 78 87 90 98 100 106 107 | 1 | 111 | 16 |
| HONDURAS | 17 | 14 27 29 42 45 78 81 87 95 98 100 105 106 108 111 122 138 | 0 | | 17 |
| HUNGARY | 17 | 14 24 52 62 77 78 87 95 98 101 111 115 122 124 140 145 161 | 0 | | 17 |
| ICELAND | 4 | 11 87 98 144 | 1 | 111 | 5 |
| INDIA | 6 | 14 22 88 107 115 144 | 2 | 11 111 | 8 |
| INDONESIA | 2 | 98 106 | 0 | | 2 |
| IRAN, ISLAMIC REP. OF | 3 | 14 106 111 | 3 | 19 95 122 | 6 |
| IRAQ | 19 | 8 11 14 22 23 77 78 94 95 98 105 106 107 111 115 140 144 145 150 | 6 | 81 122 132 146 152 153 | 25 |
| IRELAND | 19 | 8 11 14 22 23 27 29 44 73 87 88 98 105 122 124 132 142 144 159 | 0 | | 19 |
| ISRAEL | 15 | 14 52 77 78 87 94 95 97 98 101 106 111 117 122 150 | 0 | | 15 |

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> | |
| ITALY | 6 | 11 87 94 98 132 143 | 22 | 8 14 22 23 44 55 71 77 78 95 97 106 111 114 115 117 122 124 139 144 145 150 | 28 |
| JAMAICA | 7 | 8 11 94 111 117 122 150 | 3 | 87 97 98 | 10 |
| JAPAN | 7 | 8 22 87 98 115 122 142 | 0 | | 7 |
| JORDAN | 7 | 29 98 111 119 120 122 124 | 2 | 106 117 | 9 |
| KENYA | 9 | 11 14 17 94 97 98 132 140 143 | 0 | | 9 |
| KUWAIT | 0 | | 6 | 52 87 89 106 111 117 | 6 |
| 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 | 4 | 11 14 87 98 | 0 | | 4 |
| LIBERIA | 0 | | 14 | 22 23 29 55 58 87 92 98 105 108 111 112 114 147 | 14 |
| LIBYAN ARAB JAMAHIRIYA | 0 | | 16 | 14 29 52 81 88 89 95 98 100 102 105 111 121 122 128 130 | 16 |
| LUXEMBOURG | 11 | 8 11 14 22 23 77 78 87 98 130 132 | 0 | | 11 |
| MADAGASCAR | 2 | 87 122 | 11 | 6 11 14 95 111 117 120 124 127 129 132 | 13 |
| MALAWI | 0 | | 6 | 11 97 98 107 111 144 | 6 |
| MALAYSIA | 0 | | 4 | 11 88 95 98 | 4 |
| PENINSULAR MALAYSIA | 0 | | 1 | 11 | 1 |
| SABAH | 0 | | 2 | 94 97 | 2 |
| SARAWAK | 0 | | 3 | 11 14 94 | 3 |
| MALI | 8 | 6 11 14 52 87 95 98 111 | 0 | | 8 |

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

| State Member | Reports received | | Reports not received | | Grand total |
|--------------|------------------|--|----------------------|--|-------------|
| | Total | Conventions Nos. | Total | Conventions Nos. | |
| MALTA | 28 | 8 11 14 21 22 43 45 49 62 87 95 96 98 100 106 111 117 119 124 127 129 131 132 135 138 141 148 159 | 0 | | 28 |
| MAURITANIA | 0 | | 24 | 11 14 19 22 23 26 33 52 58 84 87 89 90 91 94 95 96 101 102 111 112 114 118 122 | 24 |
| MAURITIUS | 9 | 8 11 14 84 94 95 97 98 105 | 0 | | 9 |
| MEXICO | 20 | 8 9 11 14 22 23 52 55 56 87 95 106 107 111 115 124 140 144 150 160 | 0 | | 20 |
| MONGOLIA | 0 | | 4 | 87 98 111 122 | 4 |
| MOROCCO | 17 | 11 14 22 27 29 30 52 55 81 94 98 101 106 111 122 129 145 | 0 | | 17 |
| MOZAMBIQUE | 4 | 11 14 105 111 | 0 | | 4 |
| MYANMAR | 5 | 11 14 22 52 87 | 0 | | 5 |
| NEPAL | 2 | 14 111 | 0 | | 2 |
| NETHERLANDS | 31 | 8 11 14 22 23 24 25 44 45 71 87 94 95 97 101 102 106 111 113 114 115 122 124 128 140 144 145 150 151 156 159 | 0 | | 31 |
| NEW ZEALAND | 14 | 8 11 14 22 23 44 52 97 101 105 111 122 144 145 | 1 | 82 | 15 |
| NICARAGUA | 24 | 1 6 8 11 14 22 23 24 25 30 45 77 78 95 100 105 111 115 117 122 131 135 137 140 | 3 | 87 98 144 | 27 |
| NIGER | 0 | | 8 | 11 14 87 95 98 100 111 117 | 8 |
| NIGERIA | 11 | 8 11 29 45 87 94 95 97 98 100 105 | 0 | | 11 |

REPORT OF THE COMMITTEE OF EXPERTS

| State Member | Reports received | | Reports not received | | Grand total |
|------------------|------------------|--|----------------------|--|-------------|
| | Total | Conventions Nos. | Total | Conventions Nos. | |
| NORWAY | 20 | 8 11 14 22 44 56 71 87 95 97 98 111 115 122 130 132 143 144 145 150 | 0 | | 20 |
| PAKISTAN | 0 | | 10 | 11 14 22 29 87 98 105 106 107 111 | 10 |
| PANAMA | 0 | | 21 | 8 11 22 23 52 55 56 71 73 77 78 87 94 95 98 107 111 114 117 122 124 | 21 |
| PAPUA NEW GUINEA | 0 | | 9 | 8 10 11 22 27 42 98 99 122 | 9 |
| PARAGUAY | 21 | 1 11 14 52 77 78 87 89 90 95 98 100 101 105 106 107 111 115 117 122 124 | 0 | | 21 |
| PERU | 3 | 8 11 71 | 23 | 14 22 23 24 25 29 44 52 55 56 77 78 79 87 98 101 106 107 111 114 122 152 156 | 26 |
| PHILIPPINES | 7 | 23 87 94 95 98 111 122 | 1 | 77 | 8 |
| POLAND | 19 | 8 11 14 22 23 24 25 77 78 87 95 98 101 111 115 122 124 140 145 | 0 | | 19 |
| PORTUGAL | 24 | 8 11 14 22 23 77 78 87 95 97 98 103 106 107 111 117 122 124 132 143 144 145 150 151 | 0 | | 24 |
| QATAR | 1 | 111 | 0 | | 1 |
| ROMANIA | 10 | 8 11 14 24 29 87 95 98 117 122 | 1 | 111 | 11 |
| RWANDA | 9 | 11 14 17 87 94 98 111 123 135 | 0 | | 9 |
| SAINT LUCIA | 0 | | 10 | 8 11 14 87 94 95 97 98 101 111 | 10 |

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

| <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> | |
| SAN MARINO | 14 | 87 98 111 119 140 142 143 144 148 150 151 156 160 161 | 0 | | 14 |
| SAO TOME AND PRINCIPE | 1 | 111 | 0 | | 1 |
| SAUDI ARABIA | 3 | 14 106 111 | 0 | | 3 |
| SENEGAL | 11 | 11 14 52 87 95 98 101 111 117 121 122 | 0 | | 11 |
| SEYCHELLES | 0 | | 4 | 8 11 87 99 | 4 |
| SIERRA LEONE | 0 | | 25 | 8 16 17 19 22 26 29 45 58 59 81 87 88 94 95 98 99 100 101 105 111 119 125 126 144 | 25 |
| SINGAPORE | 0 | | 5 | 8 11 22 94 98 | 5 |
| SOLOMON ISLANDS | 0 | | 12 | 8 11 12 14 29 42 45 81 84 94 95 108 | 12 |
| SOMALIA | 4 | 22 94 95 111 | 1 | 23 | 5 |
| SPAIN | 34 | 8 11 14 22 23 24 25 44 55 56 77 78 87 92 94 95 97 98 101 102 106 111 114 115 117 122 124 132 137 140 144 145 150 153 | 0 | | 34 |
| SRI LANKA | 6 | 8 11 95 98 106 115 | 0 | | 6 |
| SUDAN | 5 | 95 105 111 117 122 | 1 | 98 | 6 |
| SURINAME | 10 | 11 14 87 94 95 101 106 122 144 150 | 0 | | 10 |
| SWAZILAND | 9 | 11 14 87 94 95 98 101 111 144 | 0 | | 9 |
| SWEDEN | 15 | 8 11 14 87 98 115 122 130 132 140 143 144 145 150 162 | 1 | 111 | 16 |
| SWITZERLAND | 9 | 8 11 14 23 44 87 111 115 150 | 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> | |
| SYRIAN ARAB REPUBLIC | 12 | 11 14 81 88 95 96 101 106 115 117 129 144 | 10 | 29 52 87 94 98 100 105 107 111 124 | 22 |
| TANZANIA (UNITED REPUBLIC OF) | 17 | 11 17 29 85 94 95 98 105 134 135 137 140 142 144 148 149 152 | 1 | 12 | 18 |
| TANGANYIKA | 5 | 45 81 88 101 108 | 0 | | 5 |
| ZANZIBAR | 1 | 97 | 0 | | 1 |
| THAILAND | 0 | | 4 | 14 29 105 122 | 4 |
| TOGO | 8 | 11 14 87 95 98 111 143 144 | 0 | | 8 |
| TRINIDAD AND TOBAGO | 3 | 87 97 98 | 2 | 111 125 | 5 |
| TUNISIA | 20 | 8 11 14 22 23 52 55 77 87 95 98 106 107 111 113 114 117 122 124 150 | 0 | | 20 |
| TURKEY | 9 | 11 14 77 94 95 98 111 115 122 | 0 | | 9 |
| UGANDA | 11 | 11 12 17 29 45 81 94 95 98 124 143 | 2 | 105 122 | 13 |
| UKRAINIAN SSR | 14 | 11 14 23 52 77 78 87 95 98 106 111 115 122 124 | 0 | | 14 |
| UNION OF SOVIET SOCIALIST REP. | 17 | 11 14 23 52 77 78 87 95 98 106 111 115 122 124 134 148 159 | 0 | | 17 |
| UNITED KINGDOM | 22 | 8 11 22 23 24 25 44 56 82 87 97 98 101 105 114 115 122 124 126 140 144 150 | 0 | | 22 |
| UNITED STATES | 2 | 55 144 | 1 | 147 | 3 |
| URUGUAY | 26 | 8 9 11 14 22 23 77 78 87 94 95 97 98 106 114 118 122 130 131 132 136 144 148 155 159 161 | 0 | | 26 |

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

| <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> | |
| VENEZUELA | 19 | 11 14 22 87 95 97 98 111 121 128 130 140 142 144 149 150 155 156 158 | 7 | 3 117 122 138 139 143 153 | 26 |
| YEMEN | | | | | |
| NORTH YEMEN | 0 | | 9 | 14 29 81 87 98 100 111 132 135 | 9 |
| SOUTH YEMEN | 0 | | 4 | 29 94 95 98 | 4 |
| YUGOSLAVIA | 0 | | 21 | 8 11 14 22 23 24 25 56 87 97 98 106 111 114 122 132 140 142 143 148 158 | 21 |
| ZAIRE | 8 | 11 14 94 95 98 117 119 150 | 0 | | 8 |
| ZAMBIA | 9 | 11 95 97 111 117 122 124 136 144 | 2 | 29 150 | 11 |
| ZIMBABWE | 0 | | 1 | 14 | 1 |
| 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 | 1 | 42 | 0 | | 1 |

Appendix II. Statistical Table of Reports Received
on Ratified Conventions as at 20 March 1991

(Article 22 of the Constitution)

| Period | Reports requested | Reports received at the date requested | | Reports received in time for the session of the Committee | | Reports received in time for the session of the Conference | |
|-----------|-------------------|--|------------|---|------------|--|------------|
| | | Number | Percentage | Number | Percentage | Number | Percentage |
| 1931-1932 | 447 | - | - | 406 | 90.8 | 423 | 94.6 |
| 1932-1933 | 522 | - | - | 435 | 83.3 | 453 | 86.7 |
| 1933-1934 | 601 | - | - | 508 | 84.5 | 544 | 90.5 |
| 1934-1935 | 630 | - | - | 584 | 92.7 | 620 | 98.4 |
| 1935-1936 | 662 | - | - | 577 | 87.2 | 604 | 91.2 |
| 1936-1937 | 702 | - | - | 580 | 82.6 | 634 | 90.3 |
| 1937-1938 | 748 | - | - | 616 | 82.4 | 635 | 84.9 |
| 1938-1939 | 766 | - | - | 588 | 76.8 | - | - |
| 1943-1944 | 583 | - | - | 251 | 43.1 | 314 | 53.9 |
| 1944-1945 | 725 | - | - | 351 | 48.4 | 523 | 72.2 |
| 1945-1946 | 731 | - | - | 370 | 50.6 | 578 | 79.1 |
| 1946-1947 | 763 | - | - | 581 | 76.1 | 666 | 87.3 |
| 1947-1948 | 799 | - | - | 521 | 65.2 | 648 | 81.1 |
| 1948-1949 | 806 | 134 ¹ | 16.6 | 666 | 82.6 | 695 | 86.2 |
| 1949-1950 | 831 | 253 | 30.4 | 597 | 71.8 | 666 | 80.1 |
| 1950-1951 | 907 | 288 | 31.7 | 705 | 77.7 | 761 | 83.9 |
| 1951-1952 | 981 | 268 | 27.3 | 743 | 75.7 | 826 | 84.2 |
| 1952-1953 | 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 ² | 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 |

¹ First year for which this figure is available.

² As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 until 1976 only on certain ratified Conventions.

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 ³ | 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 | 1409 | 81.9 |
| 1990 | 1958 | 192 | 9.8 | 1409 | 71.9 | - | - |

³ As a result of a decision by the Governing Body (November 1976), detailed reports are now requested, according to certain criteria, at yearly, two-yearly or four-yearly intervals.

II. Observations on the Application of Conventions in Non-Metropolitan Territories (Article 22 and Article 35, Paragraphs 6 and 8, of the Constitution)

A. GENERAL OBSERVATIONS

Netherlands

Aruba

The Committee notes with regret that, for the third 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

Tokelau

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.

B. INDIVIDUAL OBSERVATIONS

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

United Kingdom

Anguilla

The Committee notes from the Government's reply to its earlier comments that the Orders-in-Council effecting the repeal of the whole of Part II of the 1894 Merchant Shipping Act and, where appropriate, extending the relevant provisions of the 1970 Act, were still in the

process of being drafted. It also notes the adoption of the Merchant Shipping Act 1970 (Overseas Territories) Order 1988, which came into force on 21 July 1988 and which applies, with the necessary modifications, the Merchant Shipping Act 1970 to Anguilla, the Falkland Islands, Montserrat and the British Virgin Islands. According to the explanatory note (which is not part of the Order) appended to Schedule 2, this has the effect, principally, of repealing Part II of the Merchant Shipping Act 1894 and replacing the repealed provisions with those of the 1970 Act so as to bring the territories' laws concerning masters and seamen more closely into line with the law in the United Kingdom. The Committee hopes that the Government will continue to describe measures taken to bring the legislation of Montserrat into full conformity with the Convention and requests the Government to report any progress made in this regard. It also refers to its observation concerning the application of the Convention to the Falkland Islands and the British Virgin Islands.

British Virgin Islands, Falkland Islands

With reference to its previous comments, the Committee notes with interest the entry into force of Order No. 1086 of 1988 to extend the 1970 United Kingdom Merchant Shipping Act to the above-mentioned territories. It recalls that, to ensure full implementation of the Convention in the United Kingdom, section 15 of the above Act was amended by section 37 of the 1979 Merchant Shipping Act, in order, in particular, to remove the possibility of depriving seamen of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons, and cargo.

The Committee would be grateful if the Government would confirm that the amendment introduced in 1979 to section 15 of the 1970 United Kingdom Merchant Shipping Act has also been extended to the above-mentioned territories, thereby giving full effect to the Convention.

Hong Kong

Further to its earlier comments, the Committee notes with interest the Government's statement that the proposed Hong Kong Seafarers Bill, which will make provisions for the requirements under Article 2 of the Convention, is now in the final drafting stage and is expected to be enacted in early 1991. The Committee therefore hopes that the above Bill will be adopted in the near future and that it will give full effect to this Article of the Convention while eliminating any restrictions provided for by the United Kingdom Merchant Shipping Act, 1894 (applicable to Hong Kong) regarding the unemployment indemnity of seamen who did not make reasonable efforts to save the ship and the persons and property carried in it. The Committee asks the Government to supply information on any progress made in this regard.

Montserrat

The Committee notes from the Government's reply to its earlier comments that the Legal Department will advise the Labour Department once it has been determined what action ought to be taken to give full legislative effect to the 1970 United Kingdom Merchant Shipping Act. It also notes the adoption of the Merchant Shipping Act 1970 (Overseas Territories) Order, 1988, which came into force on 21 July 1988 and which applies, with the necessary modifications, the Merchant Shipping Act 1970 to Anguilla, the Falkland Islands, Montserrat and the British Virgin Islands. According to the explanatory note (which is not part of the Order) appended to Schedule 2, this has the effect, principally, of repealing Part II of the Merchant Shipping Act 1894 and replacing the repealed provisions with those of the 1970 Act so as to bring the territories' laws concerning masters and seamen more closely into line with the law in the United Kingdom. The Committee hopes that the Government will continue to describe measures taken to bring the legislation of Montserrat into full conformity with the Convention and requests the Government to report any progress made in this regard. It also refers to its observation concerning the application of the Convention to the Falkland Islands and the British Virgin Islands.

St. Helena

The Committee notes with satisfaction that, according to the information supplied by the Government in its report, the United Kingdom shipping legislation in force at 1 January 1987 applies to the territory of St. Helena by virtue of Ordinance No. 16 of 1987 respecting the application of English law. The Committee, therefore, understands that the possibility of depriving seafarers of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons and cargo, provided for in section 157 of the 1894 Merchant Shipping Act, has been abolished in accordance with Article 2 of the Convention.

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

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

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

In addition, requests regarding certain points are being addressed directly to the following States: Denmark (Greenland), France (Overseas Territory: French Polynesia), Netherlands (Aruba), United Kingdom (Anguilla).

Convention No. 16: Medical Examination of Young Persons (Sea), 1921DenmarkFaeroe Islands

Article 3 of the Convention. Further to its previous observations concerning the annual repetition of the medical examination of seafarers under the age of 18 years, the Committee notes from the Government's report for the period ending 30 June 1989, that Act No. 4 of 15 January 1988 and the regulations issued thereunder were envisaged to come into force in February 1990. In view of the Government's statement that the above regulations would provide, in accordance with the provisions of the Convention, for the annual repetition of the medical examination of seafarers under the age of 18 years, the Committee hopes that the Government will be able to confirm in its next report the coming into force of these texts.

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

Article 7 of the Convention. In reply to the Committee's previous comments, the Government states once again that additional compensation is in practice provided to insured workmen who need the constant help of another person on the basis of the general provision at the end of section 4, paragraph 2 of the Antillan Ordinance regulating accident benefits (P.B., 1966, No. 14). The Government adds, however, that it recognises that the legislation has formally to be brought into conformity with Article 7 of the Convention and that it will strive to do so at the soonest occasion.

The Committee takes note of this information. In view of the fact that this question has been the subject of its comments since 1958, the Committee can only reiterate its hope that the Government will make every effort to supplement the legislation in the near future so as to provide expressly for additional compensation to the injured workmen who need the constant help of another person. It would be grateful if the Government would indicate any progress made in this connection. In the meantime, the Committee requests the Government to supply all available information on the application in practice of Article 7 of the Convention (i.e. written rules stipulating the condition and the amount of such additional compensation paid under the general provision mentioned above as well as relevant statistical data on additional benefits so granted).

United KingdomAnguilla

In its previous comments, the Committee drew the Government's attention to the fact that the Workmen's Compensation Ordinance No. 21 of 1955, as amended, contains provisions contrary to the following Articles of the Convention:

1. Article 2, paragraph 1, of the Convention (in relation with Article 2, paragraph 2(d)). Section 2(1)(a) of the Workmen's Compensation Ordinance excludes from its scope manual workers whose earnings exceed a certain limit, whereas the Convention does not authorise any exclusion of manual workers but only that of non-manual workers.

2. Article 5. In the event of death or permanent incapacity, section 8(a), (b) and (c) of the Workmen's Compensation Ordinance provides only for the payment of a lump sum, whereas Article 5 of the Convention provides that compensation payable to the injured workman or his dependants in 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.

In its last report the Government indicated that workmen continue to be protected in case of industrial injury through a sickness benefit scheme which is part of the local social security scheme. It adds that legislation is in progress to have employment injury and disablement benefits as a separate branch under the social security scheme. While noting this information the Committee feels bound to point out that under sections 12, 24 and 38 of the Social Security (Benefits) Regulations, 1981, as amended, sickness benefit, invalidity and survivors' benefit are conditional upon a minimum qualifying period of contribution which is not authorised by the Convention. In addition, under section 14 of said Social Security (Benefits) Regulations the duration of the sickness benefit is limited to 26 weeks, whereas under Article 6 of the Convention the benefit for temporary incapacity shall be granted without limitation of time as long as this is made necessary by the state of the victim or until the latter is entitled to benefit for permanent incapacity.

The Committee hopes, therefore, that the Government will take the necessary measures to ensure full application of Articles 2 and 5 of the Convention, either by establishing an employment injury benefit scheme as a separate branch under the social security scheme and therefore by adopting regulations to this effect in conformity with the Convention or by amending section 2(1)(a) and section 8(a), (b) and (c) of the Workmen's Compensation Ordinance No. 21 of 1955, as amended, in the light of the above-mentioned comments.

St. Helena

Further to its previous comment, the Committee notes that the latest amendments to the Workmen's Compensation Ordinance in 1988 and 1989 did not contain changes that would bring it into conformity with Articles 5 and 9 of the Convention. It notes, however, the

Government's statement in its report that the Attorney General will take the matter up with the island's Executive Council, with a view to placing a recommendation before the Legislative Council. The Committee again expresses the hope that the Government will amend the legislation shortly to ensure the full application of the Convention on the following points:

Article 5 of the Convention. Under this Article of the Convention, the compensation payable in case of death or permanent incapacity shall be made in the form of periodical payments, throughout the contingency, provided that it may be paid in a lump sum, if the competent authority is satisfied that it will be properly utilised, while the legislation provides only for payment of a lump sum (Workmen's Compensation Ordinance, section 4, as amended).

Article 9. A provision needs to be incorporated in the legislation expressly stipulating that medical, surgical and pharmaceutical aid will be provided free of charge, since the legislation provides only for payment of hospital expenses (Workmen's Compensation Ordinance, section 11A, as amended).

The Committee would be grateful if the Government would supply the text of any relevant amendments once adopted.

* * *

In addition, a request regarding certain points is being addressed directly to United Kingdom (Isle of Man).

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

France

Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion), Territorial Community of St. Pierre and Miquelon; Overseas Territory (New Caledonia)

Article 9, paragraph 1, of the Convention. See under Convention No. 22, France.

* * *

In addition, a request regarding certain points is being addressed directly to France (Overseas Territory: French Polynesia).

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, 1930FranceOverseas Territories

(French Polynesia)

Article 2, paragraph 2(c), of the Convention. The Committee previously referred 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 sections 60 of this Decision, could 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 notes with interest the Government's indications in its report to the effect that Decision No. 88-193/AT of 18 December 1988 issuing the prison regulations for French Polynesia repeals Decision No. 76-184, including sections 60 and 81. The Committee asks the Government to provide a copy of the Decision in question which the Government said it would send but which was not enclosed with the report.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion) and United Kingdom (Anguilla).

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

Article 5 of the Convention. Further to its previous comments, the Committee notes with satisfaction the adoption of the Government Decree of 14 August 1989 enacted under section 17, subsection 1, of the 1952 Employment Ordinance. The Decree defines dangerous and unhealthy activities prohibited to young persons under the age of 18 years.

* * *

A request regarding certain points is being addressed directly to the Netherlands (Netherlands Antilles).

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

In its previous comments, the Committee drew the Government's attention to the fact that (a) the schedule of occupational diseases annexed to the Employment Injuries Insurance (Occupational Diseases) (Amendment) Regulations restricts the activities likely to cause anthrax infection to the loading, unloading or transport of animal products or residues or contact with animals infected with anthrax, whereas the Convention is drawn up in more general terms and also includes the loading, unloading or transport of merchandise; (b) the national schedule does not mention poisoning by certain halogen derivatives of hydrocarbons of the aliphatic series, whereas the Convention covers all these substances.

In its reply, the Government indicates that the Local Health Committee considers that Gibraltar should follow the position of the Government of the United Kingdom on these two points and is seeking UK expert advice. While noting this information, the Committee recalls that the schedule of occupational diseases currently in force in the United Kingdom is still not in conformity with the Convention. Accordingly, the Committee must refer to the observation that it is addressing this year to the United Kingdom Government concerning Convention No. 42. It expresses the hope that the Government will be able to take the necessary measures in the near future to complete the national schedule of occupational diseases in force in Gibraltar in respect of the above-mentioned points. It also hopes that the Government will be able, at the same time, to redraft the item concerning disorders caused by ionising radiation so as to cover, in conformity with the Convention, all pathological manifestations due to X-rays, radium and other radioactive substances, rather than just certain of them as is the case in the national legislation.

Convention No. 44: Unemployment Provision, 1934FranceOverseas Territory (French Polynesia)

The Committee refers to the comments that it has been making for several years, in which it pointed out the need to take appropriate measures to compensate persons who are involuntarily unemployed. It notes from the Government's reply that the territorial regulations determining the modality of implementing the principle of assistance to persons who are involuntarily unemployed, as set out in section 48 of Act No. 86-845 of 17 July 1986, have not yet been adopted. The Committee points out in this connection that in the absence of texts to implement the principle of assistance in the event of unemployment,

the Convention is not applied. In these circumstances, the Committee is bound once again to express the hope that the regulations determining the modality of implementing the right to assistance in the event of unemployment will be adopted in the near future, in accordance with the Convention, particularly since, by virtue of section 126 of Act No. 86-845 of 1986, these regulations should have been published prior to 19 July 1987. Furthermore, the Committee hopes that the above regulations will, in accordance with Article 3 of the Convention, provide for payment of benefit or an allowance in cases of partial unemployment. It requests the Government to supply the text of the regulations as soon as they are adopted.

* * *

In addition requests regarding certain points are being addressed directly to France (Territorial Community of St. Pierre and Miquelon); (Overseas Territory: New Caledonia).

Convention No. 52: Holidays with Pay, 1936

A request regarding certain points is being addressed directly to France (Overseas Territory: French Polynesia).

Convention No. 53: Officers' Competency Certificates, 1936

Denmark

Faeroe Islands

With reference to its previous comments, the Committee notes with satisfaction that subsections 1 and 2 of section 32 of Act No. 104 of 1984 (which allowed certificates of competency to be issued to certain persons who had not passed the relevant examinations) have been repealed by the Certificates of Competency Act, No. 16 of 1988, thus bringing the national legislation into conformity with Article 4, paragraph 3 of the Convention.

The Committee is addressing a request directly to the Government concerning other aspects of the application of the Convention.

* * *

In addition, a request regarding certain points is being addressed directly to Denmark (Faeroe Islands).

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

Further to its previous comments, the Committee notes from the Government's report that, on the advice of the Socio-Economic Council, the Government intends to re-evaluate the Labour Regulation shortly with the aim, among other objectives, of setting a minimum age of 15 years for admission to employment for all kinds of work. The Committee hopes that the Government will be able to supply further information on this subject in the near future.

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

A request regarding certain points is being addressed directly to France (Territorial Community of St. Pierre and Miquelon).

**Convention No. 78: Medical Examination of Young Persons
(Non-Industrial Occupations), 1946**FranceOverseas Territory (French Polynesia)

Article 7, paragraph 2(a), of the Convention. In its previous comments, the Committee noted the absence in the national legislation of provisions on identification measures to monitor the application of the system of medical examination for fitness for employment to children and young persons engaged in itinerant trading or any other occupation carried on in the streets or in places to which the public have access.

The Committee takes note of the information supplied by the Government in its report and particularly of the indication that the regulations on occupational medicine cover only wage earners, i.e. young people who have finished compulsory schooling and are engaged by an employer.

The Committee refers to the Government's report for the period ending 30 June 1982, in which the Government indicated that itinerant trading was carried on by young persons in the streets, inter alia on the waterfront of the port of Papeete.

The Committee hopes that the necessary measures will be taken shortly and asks the Government to indicate progress in this respect.

* * *

In addition, requests regarding certain points are being addressed to France (Overseas Department: Territorial Community of St. Pierre and Miquelon; Overseas Territory: New Caledonia).

Convention No. 81: Labour Inspection, 1947

Requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba), United Kingdom (Guernsey).

Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947

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

**Convention No. 87: Freedom of Association and Protection
of the Right to Organise, 1948**

Requests regarding certain points are being addressed directly to France (Overseas Territory: French Polynesia), Netherlands (Aruba), United Kingdom (Isle of Man).

Information supplied by United Kingdom (Hong Kong) in answer to a direct request has been noted by the Committee.

Convention No. 94: Labour Clauses (Public Contracts), 1949

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territory: French Polynesia), Netherlands (Aruba), United Kingdom (Bermuda, British Virgin Islands).

Convention No. 95: Protection of Wages, 1949

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territory: New Caledonia), Netherlands (Aruba), United Kingdom (Montserrat).

Convention No. 97: Migration for Employment (Revised), 1949

Information supplied by the United Kingdom (Montserrat) in answer to a direct request has been noted by the Committee.

Convention No. 98: Right to Organise and Collective Bargaining, 1949FranceFrench Southern and Antarctic Territory

Further to the declarations of application without modification in the French Southern and Antarctic Territory of Conventions Nos. 87 and 98, communicated to the Director-General of the International Labour Office on 13 March 1990, the Committee would be grateful if the Government would provide information in reply to the comments made by the National Federation of Maritime Trade Unions (FNSM) dated 9 July 1986 and 4 September 1987 to the effect that the provisions concerning the registration and manning of vessels in the Southern and Antarctic Territory appear to infringe the above-mentioned Conventions (Order of 17 June 1986 repealed and replaced by the Order of 20 March 1987).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Australia (Norfolk Island), United Kingdom (Isle of Man).

Information supplied by United Kingdom (Hong Kong) in answer to a direct request has been noted by the Committee.

Convention No. 100: Equal Remuneration, 1951

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territories: French Polynesia, New Caledonia), New Zealand (Tokelau).

Convention No. 101: Holidays with Pay (Agriculture), 1952

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territory: French Polynesia), Netherlands (Aruba).

Convention No. 105: Abolition of Forced Labour, 1957United KingdomNon-metropolitan territories

In its previous comments the Committee noted that 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 were punishable with imprisonment involving an obligation to perform

labour and which provided for the forcible return on board ship of seamen absent without leave, were repealed for the United Kingdom by the 1970 Merchant Shipping Act. It also noted that Orders-in-Council were to extend the provisions of the 1970 Act to certain non-metropolitan territories. In its last observation the Committee noted that the provisions of the Merchant Shipping Act, 1970 (Overseas Territories) Order, 1988, which came into force on 21 July 1988 apply, with the necessary modifications, the Merchant Shipping Act, 1970, to Anguilla, the British Virgin Islands, the Falklands Islands (Malvinas) and Montserrat. The Committee requested the Government to confirm whether this had the effect of repealing sections 221 to 225 of the United Kingdom Merchant Shipping Act, 1894 (c. 60) as applying in these territories.

The Committee notes with interest the information provided by the Government in its report that sections 221 to 225 no longer apply to the territories in question by virtue of the above-mentioned 1988 Order.

Guernsey

Referring to its previous observation, the Committee notes the information provided by the Government in its report that sections 221 to 224 and section 225(1)(b), (c) and (e) of the United Kingdom Merchant Shipping Act, 1894, have never formed part of the law of Guernsey.

The Committee understands that the provisions in question, having never formed part of the law of Guernsey, ceased to have any effect in relation to Guernsey-registered ships on their repeal by the United Kingdom legislation.

Hong Kong

The Committee notes the indication by the Government in its report that the proposed Hong Kong Merchant Shipping (Seafarers) Bill is expected to be enacted in early 1991, 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: Netherlands (Aruba), United Kingdom (Montserrat).

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Requests regarding certain points are being addressed directly to the following States: Denmark (Greenland), France (Overseas Territory: French Polynesia), Netherlands (Aruba, Netherlands Antilles).

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

In addition, requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territories: New Caledonia, French Polynesia), New Zealand (Tokelau).

Convention No. 122: Employment Policy, 1964

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territory: New Caledonia), Netherlands (Aruba), United Kingdom (Guernsey).

**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**Convention No. 127: Maximum Weight, 1967**

Requests regarding certain points are being addressed directly to the following States: Denmark (Greenland), France (Overseas Territory: New Caledonia), United Kingdom (Isle of Man).

Information supplied by Denmark (Faeroe Islands) in answer to a direct request has been noted by the Committee.

Convention No. 127: Maximum Weight, 1967

A request regarding certain points is being addressed directly to France (Overseas Territory: New Caledonia).

Convention No. 140: Paid Educational Leave, 1974

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

Convention No. 141: Rural Workers' Organisations, 1975

A request regarding certain points is being addressed directly to France (Overseas Territory: French Polynesia).

**Convention No. 144: Tripartite Consultation (International Labour Standards)
1976**

Requests regarding certain points are being addressed directly to France (Overseas Territories: French Polynesia, New Caledonia).

Convention No. 145: Continuity of Employment (Seafarers), 1976

Information supplied by France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; Territorial Community of St. Pierre and Miquelon) in answer to a direct request has been noted by the Committee.

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territory: French Polynesia), United Kingdom (Isle of Man).

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977United KingdomGuernsey

Further to its previous comments, the Committee notes with satisfaction the adoption of the Health and Safety at Work (General) (Guernsey) Ordinance (XXXI), 1987, which, inter alia, places a duty on persons having control of factories, growing properties, quarries and any premises where there are plants capable of producing or emitting ionising radiations to use the best practicable means for preventing the emission of noxious or offensive substances and to provide information, instruction, training and supervision necessary for the health and safety of workers, thus ensuring the application of Article 3, Article 4, paragraph 1, and Article 13 of the Convention.

* * *

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

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).

Convention No. 151: Labour Relations (Public Service), 1978United KingdomHong Kong

The Committee takes note of the Government's reply to the communication, dated 1 May 1989, from the Federation of Civil Service Unions (FCSU).

The FCSU indicates that, with regard to Article 7 of the Convention, the Government has no intention of promoting machinery for the negotiation of terms and conditions of employment so as to allow civil servants in Hong Kong to bargain collectively their employment conditions. It has only adopted a consultative machinery and the existing body was appointed in 1968 with no element of democratic status, and with little change since then. This Senior Civil Service Council (SCSC) only has limited coverage and the Government only informs it of certain issues affecting civil servants and ignores any objections the Council might have.

The Government points out that collective bargaining is only one of the many ways to effect an exchange of views between employees and employers and the system of joint consultation has been preferred in Hong Kong because it is appropriate to conditions there. Although voluntary negotiation is encouraged, the main difficulty in applying collective bargaining is that the Hong Kong civil service is characterised by a large number of unions/staff associations, making the establishment of a single viewpoint for bargaining purposes a formidable task. As for the SCSC, the Government states that since 1982 certain high-level staff are not covered by it and that in the near future a separate consultative council will be set up for the general disciplined services; these changes will readjust the number of staff represented by the SCSC to less than 100,000, and the membership of the three staff associations which set it up is 40,000, equivalent to 40 per cent representation. The Government lists some of the continuous efforts made to develop the system of dialogue between civil service staff and management: the Standing Commission's 1979 review of consultative machinery, which led to its strengthening at the central level by the creation of a separate consultative council in 1982 for certain high-level staff; the setting up of 72 departmental level consultative committees; the 1987-88 review whose recommendations were open to comment from individual staff members, staff associations and department managements; the current collation of comments received on this most recent review with a view to the elaboration of an implementation programme in due course. According to the Government, this latest review reaffirmed that the existing consultative machinery is effective, but that further improvements recommended by the Standing Commission would make the system even better.

The Committee observes that Article 7 requires measures appropriate to national conditions to be taken for the development and utilisation of machinery for negotiation or of such other methods allowing staff representatives to participate in the determination of their employment conditions. It is clear from the Government's reply that consultative machinery is in place - and is regularly reviewed - allowing staff representatives to have some say in the determination of civil service employment matters. The Committee is unsure, however, in view of the doubts expressed by the Federation of Civil Service Unions, whether the role accorded to the SCSC and the Standing Commission suffices as a method allowing staff representatives to participate actively in the determination of employment conditions affecting their membership. It accordingly requests the Government to inform it of the recommendations made by the most recent review of the consultative machinery, of the proposals elaborated to implement these recommendations and to give details on the practical functioning of the current machinery in so far as it relates to Article 7 of the Convention.

**Appendix Receipt of Detailed Reports on Ratified Conventions
(Non-Metropolitan Territories) as at 20 March 1991**

(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> | |
| GRAND TOTAL | 322 | | 78 | | 400 |
| AUSTRALIA | | | | | |
| NORFOLK ISLAND | 4 | 11 87 98 122 | 0 | | 4 |
| TOTAL | 4 | | 0 | | 4 |
| DENMARK | | | | | |
| FAEROE ISLANDS | 6 | 8 27 92 98 106 126 | 4 | 11 14 52 87 | 10 |
| GREENLAND | 7 | 11 14 87 105 106 122 126 | 1 | 29 | 8 |
| TOTAL | 13 | | 5 | | 18 |
| FRANCE | | | | | |
| FRENCH GUIANA | 20 | 8 14 22 23 24 29 52 55 56 71 98 101 106 111 114 115 129 144 145 149 | 4 | 87 94 95 124 | 24 |
| FRENCH POLYNESIA | 28 | 11 14 17 22 23 24 29 44 52 55 56 71 77 78 82 87 94 95 98 100 101 106 111 115 122 124 141 145 | 1 | 144 | 29 |
| GUADELOUPE | 21 | 8 11 14 22 23 24 29 52 55 56 71 98 101 106 111 114 115 129 144 145 149 | 4 | 87 94 95 124 | 25 |
| MARTINIQUE | 21 | 8 11 14 22 23 24 29 52 55 56 71 98 101 106 111 114 115 129 144 145 149 | 4 | 87 94 95 124 | 25 |

REPORT OF THE COMMITTEE OF EXPERTS

| <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> | |
| NEW CALEDONIA | 26 | 11 14 22 23 24 52 55 56 71 77 78 82 87 94 95 98 100 101 106 111 115 124 126 127 144 145 | 2 | 44 122 | 28 |
| REUNION | 20 | 8 11 14 22 23 24 52 55 56 71 98 101 106 111 114 115 129 144 145 149 | 4 | 87 94 95 124 | 24 |
| ST. PIERRE AND MIQUELON | 19 | 11 14 22 23 24 44 52 55 56 71 98 101 106 111 115 122 129 145 149 | 11 | 29 77 78 82 87 88 94 95 105 124 144 | 30 |
| TOTAL | 155 | | 30 | | 185 |
| NETHERLANDS | | | | | |
| ARUBA | 0 | | 38 | 8 9 11 12 14 17 22 23 25 29 45 81 87 88 89 90 94 95 101 105 106 113 114 121 122 126 129 131 135 137 138 140 141 142 144 145 146 147 | 38 |
| NETHERLANDS ANTILLES | 14 | 8 11 14 17 22 23 25 33 87 94 95 101 106 122 | 0 | | 14 |
| TOTAL | 14 | | 38 | | 52 |
| NEW ZEALAND | | | | | |
| TOKELAU ISLANDS | 0 | | 5 | 29 82 100 105 111 | 5 |
| TOTAL | 0 | | 5 | | 5 |
| UNITED KINGDOM | | | | | |
| ANGUILLA | 13 | 8 11 14 22 23 82 87 94 97 98 101 105 140 | 0 | | 13 |
| BERMUDA | 8 | 11 22 23 82 87 94 98 115 | 0 | | 8 |
| BRITISH VIRGIN ISLANDS | 10 | 8 11 14 23 82 87 94 97 98 105 | 0 | | 10 |
| FALKLAND ISLANDS (MALVINAS) | 9 | 8 11 14 22 23 82 87 98 105 | 0 | | 9 |

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> | |
| GIBRALTAR | 10 | 8 11 22 23 44 82 87 98 150 160 | 0 | | 10 |
| GUERNSEY | 15 | 8 11 22 24 25 44 56 87 97 98 105 114 115 122 150 | 0 | | 15 |
| HONG KONG | 15 | 8 11 14 22 82 87 97 98 101 105 115 122 124 144 150 | 0 | | 15 |
| ISLE OF MAN | 20 | 8 11 17 22 23 24 25 42 44 56 68 81 87 95 97 98 101 105 122 150 | 0 | | 20 |
| JERSEY | 15 | 8 11 22 24 25 44 56 87 95 97 98 105 115 140 160 | 0 | | 15 |
| MONTSERRAT | 9 | 8 11 14 82 87 95 97 98 105 | 0 | | 9 |
| ST. HELENA | 8 | 8 11 14 17 82 87 98 150 | 0 | | 8 |
| TOTAL | 132 | | 0 | | 132 |
| UNITED STATES | | | | | |
| AMERICAN SAMOA | 1 | 55 | 0 | | 1 |
| GUAM | 1 | 55 | 0 | | 1 |
| PUERTO RICO | 1 | 55 | 0 | | 1 |
| UNITED STATES VIRGIN ISLANDS | 1 | 55 | 0 | | 1 |
| TOTAL | 4 | | 0 | | 4 |

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 observation. It recalls that the instruments adopted from the 65th to 72nd Sessions and at the 75th Session of the Conference, which were transmitted to the General Secretariat of the Government and to the President of the Republic, should also be submitted to the People's National Assembly, as the authority vested with the power to issue general rules concerning labour law, pursuant to section 115 of the Algerian Constitution. The Committee hopes that the Government will shortly 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 instrument adopted at the 76th Session of the Conference has been submitted.

Antigua and Barbuda

The Committee notes with regret that again this year 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 articles 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 submit the above instruments, together with those adopted at the 69th, 70th, 71st, 72nd, 74th and 75th Sessions, to the legislative body. Furthermore, it would be grateful if the Government would indicate whether the instrument adopted at the 76th Session has been submitted. The Committee 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.

Belize

The Committee notes that the Government has not replied to its previous observation. It trusts that the Government will shortly be able to indicate that the instruments adopted from the 69th to 75th Sessions of the Conference have been submitted to the National Assembly, which is empowered to legislate by virtue of sections 62 and 69 of the National Constitution, and that it 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 the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Bolivia

The Committee notes that the Government has not replied to its previous observation. It trusts that in the near future, the Government will provide for the instruments adopted at the 60th and from the 63rd to the 75th Sessions of the Conference, which have already been submitted to Congress, the information and documents requested in the Memorandum adopted by the Governing Body (points II(b) and (c), and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session has been submitted.

Brazil

The Committee notes that Convention No. 139, adopted at the 59th Session of the Conference, has been submitted to the competent authorities. Recalling its previous comments, the Committee hopes that the Government will shortly supply, for the various instruments already submitted and adopted from the 46th to 71st Sessions of the Conference (Conventions Nos. 141, 143, 144, 153, 155, 158 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) and (c), and III of the questionnaire for the Conventions, and II and III for the Recommendations). The Committee hopes that it will be possible for the remaining instruments (Conventions Nos. 128-130, 149-151, 156, 157 and the instruments adopted at the 74th, 75th and 76th Sessions) to be submitted shortly.

Cambodia

The Committee notes that no information has been provided concerning the submission to the competent authorities of the instruments adopted by the Conference.

Central African Republic

The Committee notes that the Government has not replied to its previous observation. It trusts that it will shortly indicate that the instruments adopted at the 75th Session have been submitted to the competent authorities and that it will provide for the above instruments and for those adopted at the 65th, 69th, 70th, 71st, 72nd and 74th 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). Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Congo

The Committee takes note of the statement made by a Government representative before the Conference Committee in 1990, in which he recalled the material and administrative difficulties facing his country, and indicated that the texts of a series of instruments had, none the less, already been submitted to the National Assembly in the last quarter of 1989. The Committee also notes the discussion that ensued and the firm hope expressed by the Conference Committee that the Government would be able to meet its obligations in this respect as soon as possible. The Committee recalls that the instruments in question are those adopted at the 60th, 61st, 62nd, 68th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference and the remaining instruments from 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).

Costa Rica

The Committee takes note of the information and documents provided by the Government concerning the submission to the competent authorities of the instrument adopted at the 76th Session of the Conference. With reference to its previous comments, it hopes that the Government will shortly be able to indicate that Recommendation No. 167 adopted at the 69th Session of the Conference and the instruments adopted at the 71st, 72nd, 74th and 75th Sessions have been submitted to the competent authorities and that it will supply for the above-mentioned instruments the information and documents requested in the Memorandum adopted by the Governing Body.

Djibouti

The Committee notes with regret that the Government has once again failed to reply to its previous observation. It trusts that it will shortly indicate that the instruments adopted at the 66th, 68th, 69th, 70th, 74th and 75th Sessions of the Conference have been

submitted to the competent authorities and that it will provide, both for the instruments above and for those adopted at the 71th 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 instrument adopted at the 76th Session of the Conference has been submitted.

Dominican Republic

The Committee notes that the Government has not replied to its previous observation. It trusts that it will shortly indicate that the instruments adopted at the 63rd, 65th, 66th, 67th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to Congress and that, for the above instruments and those adopted at the 68th Session - which have already been submitted - it will communicate the information and documents requested in the Memorandum adopted by the Governing Body.

El Salvador

The Committee regrets to note that this year yet again the Government has not replied to its previous observations. It trusts that it will shortly indicate that the instruments adopted at the 62nd, 65th, 66th, 67th, 68th, 70th, 72nd, 74th and 75th Sessions of the Conference, and the remaining instruments from the 63rd, 64th, 69th and 71st Sessions (Conventions Nos. 148, 151, 161; Recommendations Nos. 156, 157, 158, 159, 167, 171), have been submitted to the competent authorities and that it will provide for the above instruments the documents and information 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 instrument adopted at the 76th Session of the Conference has been submitted.

Fiji

With reference to its previous comments, the Committee notes from the information supplied by the Government that the election of a Parliament in 1992 should put an end to the delay in the procedure for submission of instruments to the competent authorities. It recalls that the instruments in question are those adopted at the 71st, 72nd, 74th, 75th and 76th Sessions of the Conference.

Gabon

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will shortly indicate that the instruments adopted at the 65th, 66th, 67th, 68th, 69th and 70th Sessions of the Conference, which have already been

submitted to the President, have also been submitted, as in the past, to the National Assembly, along with those adopted at the 72nd, 74th and 75th Sessions.

The Committee also hopes that the Government will provide information on the decisions taken regarding Conventions Nos. 133, 134 and 139 and Recommendations Nos. 129 to 132, 136 to 138, 140 to 142, 144, 147, 148 and 154, along with a copy of the document whereby they were submitted to the National Assembly in 1981.

Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Ghana

The Committee takes note of the information supplied by the Government concerning the submission to the competent authorities of the instrument adopted at the 76th Session of the Conference. With reference to its previous comments, it hopes that the Government will shortly provide, for the above instrument and for those adopted from the 66th to 75th 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 from the information and documents supplied by the Government, that the instruments adopted at the 66th and 67th Sessions of the Conference have been submitted to the competent authorities. The Committee also notes the information provided by a Government representative at the Conference Committee in 1990 concerning the Government's intention to submit new instruments shortly. It also notes the discussion that ensued and the conclusions of the Conference Committee. In the absence of any new information, it hopes that the Government will shortly indicate that the instruments adopted at the 68th, 69th, 70th, 71st, 72nd, 74th and 75th Sessions have been submitted to Parliament. Furthermore, it would be grateful if the Government would indicate whether the instrument adopted at the 76th Session has 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 with regard to 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

Further to its previous comments, the Committee notes with interest the information and documents supplied by the Government indicating that the instruments adopted from the 68th to 75th Sessions of the Conference have been submitted to the competent authorities. The Committee hopes that the Government will shortly supply for these instruments the information requested under points II(b) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. In addition, the Committee would be glad if the Government would indicate whether the instrument adopted at the 76th Session has been submitted.

Guinea-Bissau

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will shortly indicate that the instruments adopted 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 People's National Assembly, which is another authority empowered to legislate, together with the instruments adopted at the 71st, 72nd, 74th and 75th Sessions. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Haiti

Further to its previous comments, the Committee notes the explanations provided by a Government representative at the Conference Committee in 1990 concerning the difficulties (referred to by the Government in its report) - the absence of a Parliament, in particular - which have prevented the instruments in question from being submitted to the competent authorities within the established period. It also notes the discussion that ensued and the conclusions of the Conference Committee. The Committee hopes that the Government will shortly be able to indicate that the instruments adopted from the 67th to 76th Sessions of the Conference have been submitted to the new Parliament.

India

The Committee notes that the Government has not replied to its previous observation. It trusts that it will shortly indicate that the instruments adopted at the 71st, 72nd, 74th and 75th Sessions of the Conference have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Islamic Republic of Iran

The Committee notes that the Government has not replied to its previous observation. It trusts that it will shortly indicate the dates on which the instruments adopted from the 62nd to 75th Sessions of the Conference were submitted and provide 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). Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Ireland

The Committee notes the absence of a reply to its previous direct requests. It hopes that the Government will soon indicate that the instruments adopted at the 72nd, 74th and 75th Sessions of the Conference have been submitted to Parliament. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Jamaica

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will soon indicate that the instruments adopted at the 70th, 71st, 72nd, 74th and 75th Sessions of the Conference have been submitted to Parliament. Furthermore, it would be grateful if the Government would indicate whether the instrument adopted at the 76th Session has 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

The Committee recalls its previous comments and hopes that the Government will supply information on the effect given to the

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instruments adopted from the 66th to the 75th Sessions of the Conference, which have been submitted, and that it will be able to submit, in stages, if necessary, the remaining instruments (those adopted from the 48th to the 65th Sessions and at the 76th Session) in the near future.

Lebanon

The Committee hopes that the remaining instruments adopted from the 31st to the 76th Sessions of the Conference will be submitted to the competent authorities as soon as circumstances permit.

Lesotho

The Committee notes that the Government has not replied to its previous observation. It trusts that the Government will soon indicate that Convention No. 157, adopted at the 68th Session of the Conference, and the instruments adopted at the 69th, 70th, 74th and 75th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Libyan Arab Jamahiriya

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will soon indicate that the instruments adopted at the 74th and 75th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session has been submitted.

Madagascar

The Committee notes with regret that, once again this year, 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, 74th and 75th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Malawi

The Committee notes that the Government has not replied to its previous observation. It trusts that it will soon indicate that the remaining instruments (Conventions Nos. 133, 134, 137 to 142, 145 to 147, 152, 160 to 166; 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 75th Session, have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Mauritania

Further to its previous comments, the Committee notes with satisfaction, from the information and documents supplied by the Government, that the instruments adopted from the 68th to the 76th Sessions of the Conference have been submitted to the competent authorities.

Mauritius

Further to its previous observation, the Committee notes with interest the information and documents supplied by the Government according to which certain of the instruments adopted at the 63rd, 67th and 71st Sessions of the Conference, and all the instruments adopted from the 72nd to the 76th Sessions, have been submitted to the competent authorities. It hopes that the Government will soon be able to indicate that the remaining instruments from the 59th Session (Convention No. 140; Recommendation No. 148), the 60th Session (Conventions Nos. 141 and 142; Recommendations Nos. 149 and 150), the 63rd Session (Convention No. 149; Recommendation No. 157), the 65th Session (Convention No. 152; Recommendation No. 160), the 67th Session (Conventions Nos. 154 and 156; Recommendations Nos. 163 and 165), the 69th Session (Recommendation No. 167) and the 71st Session (Convention No. 160; Recommendation No. 170) and the instruments adopted at the 64th, 66th, 68th and 70th Sessions of the Conference have been submitted to Parliament.

Nepal

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon be able to indicate that the remaining instruments from the 54th and 67th Sessions of the Conference (Conventions Nos. 132 and 154; Recommendations Nos. 135 and 136), and the instruments adopted at the 53rd, from the 55th to the 61st and at the 66th Session, as well as those adopted at the 75th and 76th Sessions, have been submitted to Parliament, and that it will supply, for all the above instruments, the information and documents requested in the Memorandum adopted by

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the Governing Body, particularly under point II(a) and (b) of the questionnaire.

Nigeria

The Committee notes the information supplied by the Government according to which the instrument adopted at the 76th Session of the Conference has been submitted to the competent authorities. It would be grateful if the Government would indicate the date on which this instrument was submitted, in accordance with point II(a) of the questionnaire at the end of Memorandum adopted by the Governing Body. The Committee also notes that the National Labour Advisory Council is currently examining the instruments adopted at the 75th Session and it hopes that they will soon be submitted in their turn.

With reference to its previous comments, the Committee hopes that the Government will soon be able to supply information on the proposals and decisions concerning the instruments adopted from the 45th to 59th Sessions and from the 65th to the 74th Sessions of the Conference, which have already been submitted, but which the National Labour Advisory Council has been re-examining for some time with a view to their possible ratification.

Pakistan

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will indicate in the near future that the instruments adopted from the 69th to 75th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Panama

Further to its previous observations, the Committee notes from the Government's report that its comments are being examined by the competent departments. It hopes that the Government will shortly indicate that the instruments adopted at the 70th, 71st, 72nd, 74th, and 75th Sessions of the Conference have been submitted to the competent authority. Furthermore, it would be grateful if the Government would indicate whether the instrument adopted at the 76th Session has been submitted.

Papua New Guinea

Further to its previous observation, the Committee notes the statement made by a government representative before the Conference Committee in 1990 concerning the technical and administrative difficulties which continue to delay the submission of the instruments

adopted from the 66th to 75th Sessions of the Conference, and the Government's determination to submit all the remaining instruments to Parliament. It also notes the discussion that ensued and the conclusions of the Conference Committee. The Committee hopes that the Government will be able to overcome these difficulties and to indicate shortly that the above instruments, together with the instrument adopted at the 76th Session, have been submitted to the competent authorities.

Paraguay

The Committee regrets to note that the Government has not replied to its previous observations in which the Committee noted that the instruments adopted from the 68th to 74th Sessions of the Conference had been forwarded to the Minister of Foreign Affairs for submission to Congress. The Committee asked the Government to provide a copy of the letter or document whereby the Minister of Foreign Affairs submitted these instruments to Congress, and of the corresponding documents for the instruments adopted from the 62nd to 67th Sessions of the Conference, which were forwarded to the Minister of Foreign Affairs in October 1981. The Committee trusts that the Government will shortly supply these documents. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th and 76th Sessions of the Conference have been submitted.

Peru

With reference to its previous observation, the Committee notes the information supplied by the Government to the effect that Conventions Nos. 153, 155 and 157, and Recommendations Nos. 161, 164 and 167, adopted at the 65th, 67th, 68th and 69th Sessions of the Conferences have been submitted to Congress. The Committee hopes that the Government will shortly provide, for the above instruments and for those adopted at the 71st Session, which have already been submitted, a copy of the documents whereby they were submitted to Congress, and the information requested under points II and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. Furthermore, the Committee hopes that the Government will be able to indicate in the near future that the instruments adopted at the 70th, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted.

Saint Lucia

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that the Government will shortly indicate that the instruments adopted at the 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th and 75th Sessions of the Conference have been submitted to the competent authorities, and that it will

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provide the information and documents requested in this connection 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). Furthermore, it would be grateful if the Government would indicate whether the instrument adopted at the 76th Session has been submitted. It recalls 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.

San Marino

Further to its previous comments, the Committee notes with satisfaction from the information and documents provided by the Government, that the instruments adopted from the 68th to 76th Sessions of the Conference have been submitted to Parliament.

Sao Tome and Principe

Further to its previous comments, the Committee notes with satisfaction the information and documents supplied by the Government concerning the submission to the competent authorities of all the instruments adopted from the 68th to the 76th Sessions of the Conference.

Seychelles

The Committee regrets to note that the Government has never replied to the comments that it has made since 1979. It therefore expresses the firm hope that it will soon indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b), of the ILO Constitution. It recalls in this respect that the authorities to which these instruments must be submitted are those empowered to legislate, in this case the People's Assembly. 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

Further to its previous comments, the Committee notes the statement by a Government representative to the Conference Committee in 1990 concerning the administrative difficulties affecting the submission procedure. It also notes the subsequent discussion and the conclusions of the Conference Committee. It hopes that the difficulties in question will soon be overcome and that the Government will be able to indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference, as well as Convention No. 146 and Recommendation No. 154 (62nd Session), have been submitted to the competent authorities.

Sudan

The Committee notes the absence of a reply to its previous direct requests. It hopes that the Government will soon indicate that the instruments adopted at the 72nd, 74th and 75th Sessions of the Conference have been submitted to the People's Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Suriname

With reference to its previous comments, the Committee notes the information supplied by the Government to the Conference Committee in 1990 to the effect that many instruments, which have not yet been submitted to the competent authorities, would be submitted before the end of the year. As no new information has been provided since then by the Government, the Committee trusts that the Government will indicate in the near future that the instruments adopted from the 65th to the 76th Sessions of the Conference have been submitted to the National Assembly, and that it will supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body.

Syrian Arab Republic

The Committee notes, from the information supplied by the Government, that the instruments adopted at the 75th and 76th Sessions of the Conference have been transmitted to the Council of Ministers for submission to the People's Assembly. With reference to its previous comments, the Committee hopes that the Government will also supply a copy of the letter by which these instruments, and those adopted at the 74th Session, as well as Conventions Nos. 160 and 161 and Recommendations Nos. 160, 161, 162 and 167 to 171 (65th, 66th, 69th, 70th and 71st Sessions), were actually submitted by the Council

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of Ministers to the People's Assembly, thereby completing the submission procedure for all these instruments.

United Republic of Tanzania

Further to its previous observation, the Committee notes the Government's statement in its report concerning the technical difficulties which have delayed the submission procedure and the efforts that have been expended to make up this delay. The Committee hopes that the Government will soon be able to indicate that the instruments adopted at the 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the National Assembly, as well as instruments adopted at the 66th, 67th and 68th Sessions, which had been transmitted to the Ministry of Labour and Development. Finally, the Committee hopes that the Government will indicate the date of the submission to the Assembly of the instruments adopted from the 54th to the 65th Sessions and at the 69th, 70th and 71st Sessions.

Thailand

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will soon indicate the decisions taken concerning the instruments adopted at the 67th and 68th Sessions of the Conference and that the submission to the competent authorities of the instruments adopted at the 72nd, 74th and 75th Sessions, which was delayed by their translation, has now taken place. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Trinidad and Tobago

Further to its previous observation, the Committee notes the information and documents supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 71st and 72nd Sessions of the Conference. It hopes that the Government will soon be able to indicate that the remaining instruments (74th to 76th Sessions) have been submitted to the competent authorities.

Venezuela

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will shortly provide, for the instruments adopted at the 70th and 72nd Sessions of the Conference, the information and documents requested in the Memorandum adopted by the Governing Body, and that it will indicate whether Convention No. 161 and Recommendation No. 171 (71st Session), and the instruments adopted at the 74th and 75th Sessions have been

submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Yugoslavia

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will soon supply, concerning the instruments adopted at the 74th Session of the Conference, which have already been submitted to the competent authorities, the information required under points II(b) and (c) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body, and that it will indicate that the instruments adopted at the 75th Session have also been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

Zaire

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will soon indicate that the instruments adopted at the 70th, 71st, 72nd, 74th and 75th Session of the Conference have been submitted to the Legislative Council. The Committee also hopes that it will indicate that the instruments adopted at the 62nd and from the 66th to the 69th Sessions of the Conference, which have already been submitted to the President of the Republic, have also been submitted to the Legislative Council, as the Government in 1984 expressed its intention of doing henceforth for all the instruments adopted by the Conference. Furthermore, the Committee would be grateful if the Government would indicate whether the instrument adopted at the 76th Session of the Conference has been submitted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Argentina, Austria, Bahamas, Bahrain, Bangladesh, Belgium, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Chile, Colombia, Comoros, Cyprus, Czechoslovakia, Dominica, Ecuador, Equatorial Guinea, Germany, Greece, Guatemala, Guyana, Honduras, Hungary, Iraq, Israel, Italy, Jordan, Kenya, Kuwait, Liberia, Mali, Mongolia, Morocco, Mozambique, Myanmar, Netherlands, Niger, Portugal, Qatar, Romania, Solomon Islands, Somalia, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Uganda, Ukrainian SSR, USSR, United States, Uruguay, Republic of Yemen, Zambia, Zimbabwe.

Appendix I. Information Supplied by Governments with Regard to the
Obligation to Submit Conventions and Recommendations
to the Competent Authorities

(31st to 76th Sessions of the International
Labour Conference, 1948-89)¹

Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|---------------------|---|---|
| Afghanistan | 31 to 70 | 71, 72, 74, 75 and 76 |
| Algeria | 47 to 72 | 74, 75, and 76 |
| Angola | 61 to 72 | 74, 75 and 76 |
| Antigua and Barbuda | 68 | 69, 70, 71, 72, 74, 75 and 76 |
| Argentina | 31 to 75 | 76 |
| Australia | 31 to 76 | - |
| Austria | 31 to 75 | 76 |
| Bahamas | 61 to 76 | - |
| Bahrain | 63 to 75 | 76 |
| Bangladesh | 58 to 69 | 70, 71 72, 74, 75 and 76 |

¹ The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

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| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|--------------------------|--|---|
| Barbados | 51 to 76 | - |
| Belgium | 31 to 74 | 75 and 76 |
| Belize | 68 | 69, 70, 71, 72, 74, 75 and 76 |
| Benin | 45 to 75 | 76 |
| Bolivia | 31 to 75 | 76 |
| Botswana | 64 to 72 and 75 | 74 and 76 |
| Brazil | 31 to 50, 51 (C 127; R 128, 129, 130, 131), 53 (R 133, 134), 54 to 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 to 72 | 51 (C 128), 53 (C 129, 130), 63 (C 149), 64, (C 150, 151), 67 (C 156), 68 (C 157), 74, 75 and 76 |
| Bulgaria | 31 to 75 | 76 |
| Burkina Faso | 45 to 74 | 75 and 76 |
| Burundi | 47 to 75 | 76 |
| Byelorussian SSR | 37 to 76 | - |
| Cambodia | 53, 54 and 56 | 55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| Cameroon | 44 to 68, 72 and 74 | 69, 70, 71, 75 and 76 |
| Canada | 31 to 76 | - |
| Cape Verde | 65 to 74 | 75 and 76 |
| Central African Republic | 45 to 74 | 75 and 76 |
| Chad | 45 to 74 | 75 and 76 |
| Chile | 31 to 75 | 76 |
| China | 69 to 76 | - |
| Colombia | 31 to 70 and 71 (C 160; R 170) | 71 (C 161; R 171), 72, 74, 75 and 76 |
| Comoros | 65 to 74 | 75 and 76 |

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| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|--------------------|--|--|
| Congo | 45 to 53, 54 (C 131, 132), 55 (C 133, 134), 56, 58 (C 138; R 146), 59, 63 (C 149; R 157), 64 to 66 and 67 (C 154, 155) | 54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 58 (C 137; R 145), 60, 61, 62, 63 (C 148; R 156), 67 (C 156; R 163, 164, 165), 68, 69, 70, 71, 72, 74, 75 and 76 |
| Costa Rica | 31 to 68, 69 (C 159; R 168) and 70 | 69 (R 167), 71, 72, 74, 75 and 76 |
| Côte d'Ivoire | 45 to 76 | - |
| Cuba | 31 to 76 | - |
| Cyprus | 45 to 75 | 76 |
| Czechoslovakia | 31 to 75 | 76 |
| Denmark | 31 to 76 | - |
| Djibouti | 64, 65, 67, 71 and 72 | 66, 68, 69, 70, 74, 75 and 76 |
| Dominica | 74 and 75 | 68, 69, 70, 72 and 76 |
| Dominican Republic | 31 to 62, 64 and 68 | 63, 65, 66, 67, 69, 70, 71, 72, 74, 75 and 76 |
| Ecuador | 31 to 72 | 74, 75 and 76 |
| Egypt | 31 to 76 | - |
| El Salvador | 31 to 61, 63 (C 149), 64 (C 150), 69 (C 159; R 168), and 71 (C 160; R 170) | 62, 63 (C 148; R 156, 157), 64 (C 151; R 158, 159), 65, 66, 67, 68, 69 (R 167), 70 and 71 (C 161; R 171), 72, 74, 75 and 76 |
| Equatorial Guinea | 67 to 72 and 75 | 74 and 76 |
| Ethiopia | 31 to 76 | - |
| Fiji | 59 to 70 | 71, 72, 74, 75 and 76 |
| Finland | 31 to 76 | - |
| France | 31 to 76 | - |

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| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|---------------------------|---|---|
| Gabon | 45 to 71 | 72, 74, 75 and 76 |
| Germany | 34 to 64, 65 (C 152, 153; R 160), 66 to 70 and 71 (C 160; R 170) | 65 (R 161), 71 (C 161; R 171), 72, 74, 75, and 76 |
| Ghana | 40 to 76 | - |
| Greece | 31 to 74 | 75 and 76 |
| Grenada | 66 and 67 | 68, 69, 70, 71, 72, 74, 75 and 76 |
| Guatemala | 31 to 70, 71 (C 160, 161; R 171) and 72 | 71 (R 170), 74, 75 and 76 |
| Guinea | 43 to 75 | 76 |
| Guinea-Bissau | 63 to 70 | 71, 72, 74, 75 and 76 |
| Guyana | 50 to 70 | 71, 72, 74, 75 and 76 |
| Haiti | 31 to 66 | 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| Honduras | 39 to 66, 68, 69, 71, 72 and 74 (C 164, 165, 166; R 174) | 67, 70, 74 (C 163; R 173), 75 and 76 |
| Hungary | 31 to 75 | 76 |
| Iceland | 31 to 76 | - |
| India | 31 to 70 | 71, 72, 74, 75 and 76 |
| Indonesia | 33 to 76 | - |
| Iran, Islamic Republic of | 31 to 76 | - |
| Iraq | 31 to 74 | 75 and 76 |
| Ireland | 31 to 71 | 72, 74, 75 and 76 |
| Israel | 32 to 75 | 76 |
| Italy | 31 to 76 | - |
| Jamaica | 47 to 69 | 70, 71, 72, 74, 75 and 76 |
| Japan | 35 to 76 | - |
| Jordan | 39 to 71, 74 and 76 | 72 and 75 |

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| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|----------------------------------|--|---|
| Kenya | 48 to 68 | 69, 70, 71, 72, 74, 75 and 76 |
| Kuwait | 45 to 72, 74, 75 (C 167; R 175) and 76 | 75 (C 168; R 176) |
| Lao People's democratic Republic | 66 to 75 | 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65 and 76 |
| Lebanon | 31 (C 88, 89, 90; R 83), 32 (C 95, 98; R 85), 34 (C 100; R 90), 35 (C 102, 103), 40 (C 105, 106; R 103), 42 (C 111; R 111), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122; R 120, 122), 49 (C 123, 124), 50 (C 125, 126) and 51 to 66 | 31 (C 87), 32 (C 91, 92, 93, 94, 96, 97; R 84, 86, 87), 33, 34 (C 99; R 89, 91, 92), 35 (C 101; R 93, 94, 95), 36, 37, 38, 39, 40 (C 107; R 104), 41, 42 (C 110; R 110), 43, 44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (R 121) 49 (R 123, 124, 125), 50 (R 126, 127), 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| Lesotho | 66, 67, 68 (C 158; R 166), 71 and 72 | 68 (C 157), 69, 70, 74, 75 and 76 |
| Liberia | 31 to 75 | 76 |
| Libyan Arab Jamahiriya | 35 to 72 | 74, 75 and 76 |
| Luxembourg | 31 to 76 | - |
| Madagascar | 45 to 54, 56 to 70 | 55, 71, 72, 74, 75 and 76 |
| Malawi | 49 to 54, 56, 61, 63 (C 148, 149; R 157), 64 (C 150, 151), 65 (C 153), 67 (C 154, 155, 156), 68 and 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, 75 and 76 |
| Malaysia | 41 to 76 | - |
| Mali | 44 to 72 | 74, 75 and 76 |
| Malta | 49 to 76 | - |
| Mauritania | 45 to 76 | - |

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| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|------------------|--|---|
| Mauritius | 53 to 58, 59 (C 139; R 147), 60 (C 143; R 151), 61, 62, 63 (C 148; R 156), 65 (C 153; R 161), 67 (C 155; R 164), 69 (C 159; R 168), 71 (C 161; R 171) and 72 to 76 | 59 (C 140; R 148), 60 (C 141, 142; R 149, 150), 63 (C 149; R 157), 64, 65 (C 152; R 160), 66, 67 (C 154, 156; R 163, 165), 68, 69 (R 167), 70 and 71 (C 160; R 170) |
| Mexico | 31 to 76 | - |
| Mongolia | 53 to 74 | 75 and 76 |
| Morocco | 39 to 72 | 74, 75 and 76 |
| Mozambique | 61 to 76 | - |
| Myanmar | 31 to 76 | - |
| Nepal | 51, 52, 54 (C 131), 62 to 65, 67 (C 155, 156; R 163, 164, 165), 68 to 74 | 53, 54 (C 132; R 135, 136), 55, 56, 58, 59, 60, 61, 66, 67 (C 154), 75 and 76 |
| Netherlands | 31 to 68, 69 (C 159; R 168), 70, 71 (C 160; R 170), and 72 to 76 | 69 (R 167) and 71 (C 161; R 171) |
| New Zealand | 31 to 76 | - |
| Nicaragua | 40 to 76 | - |
| Niger | 45 to 74 | 75 and 76 |
| Nigeria | 45 to 74 and 76 | 75 |
| Norway | 31 to 76 | - |
| Pakistan | 31 to 68 | 69, 70, 71, 72, 74, 75 and 76 |
| Panama | 31 to 69 | 70, 71, 72, 74, 75 and 76 |
| Papua New Guinea | 61 to 65 | 66, 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| Paraguay | 40 to 67 | 68, 69, 70, 71, 72, 74, 75 and 76 |
| Peru | 31 to 69 and 71 | 70, 72, 74, 75 and 76 |
| Philippines | 31 to 76 | - |

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| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|-----------------------|---|---|
| Poland | 31 to 76 | - |
| Portugal | 31 to 76 | - |
| Qatar | 58 to 75 | 76 |
| Romania | 39 to 76 | - |
| Rwanda | 47 to 76 | - |
| Saint Lucia | - | 66, 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| San Marino | 69 to 76 | - |
| Sao Tome and Principe | 68 to 76 | - |
| Saudi Arabia | 61 to 76 | - |
| Senegal | 44 to 76 | - |
| Seychelles | - | 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| Sierra Leone | 45 to 62 (C 145, 147; R 153, 155) | 62 (C 146; R 154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| Singapore | 50 to 76 | - |
| Solomon Islands | 74 | 70, 71, 72, 75 and 76 |
| Somalia | 45 to 75 | 76 |
| Spain | 39 to 62, 63 (C 148; R 156, 157), 64 to 69, 71 (C 160; R 170), 72 and 74 (C 163, 164, 166; R 173, 174) | 63 (C 149), 70, 71 (C 161; R 171), 74 (C 165), 75 and 76 |
| Sri Lanka | 31 to 72 | 74, 75 and 76 |
| Sudan | 39 to 72 | 74, 75 and 76 |
| Suriname | 61 to 64 | 65, 66, 67, 68, 69, 70, 71, 72, 74, 75 and 76 |
| Swaziland | 60 to 69, 71 and 72 | 70, 74, 75 and 76 |
| Sweden | 31 to 75 | 76 |
| Switzerland | 31 to 75 | 76 |
| Syrian Arab Republic | 31 to 74 | 75 and 76 |

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| State | Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments | Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied) |
|---------------------------------|---|---|
| Tanzania, United Republic of | 46 to 65, 69 to 71 | 66, 67, 68, 72, 74, 75 and 76 |
| Thailand | 31 to 71 | 72, 74, 75 and 76 |
| Togo | 44 to 76 | - |
| Trinidad and Tobago | 47 to 72 | 74, 75 and 76 |
| Tunisia | 39 to 76 | - |
| Turkey | 31 to 76 | - |
| Uganda | 47 to 72 | 74, 75 and 76 |
| Ukrainian SSR | 37 to 76 | - |
| USSR | 37 to 76 | - |
| United Arab Emirates | 58 to 76 | - |
| United Kingdom | 31 to 76 | - |
| United States | 31 to 75 | 76 |
| Uruguay | 31 to 74 | 75 and 76 |
| Venezuela | 31 to 70, 71 (C 160; R 170) and 72 | 71 (C 161; R 171), 74, 75 and 76 |
| Yemen | 49 to 72 and 75 | 74 and 76 |
| Yugoslavia | 31 to 74 | 75 and 76 |
| Zaire | 45 to 69 | 70, 71, 72, 74, 75 and 76 |
| Zambia | 49 to 74 | 75 and 76 |
| Zimbabwe | 66 to 75 | 76 |

Appendix II

Over-all position of member States at 20 March 1991

| 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 | - ¹ | 2 | 63 |
| 34 (June 1951) | 62 | 2 | - | 64 |
| 35 (June 1952) | 64 | 2 | - | 66 |
| 36 (June 1953) | 64 | - | 2 | 66 |
| 37 (June 1954) | 67 | - ¹ | 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 | - ¹ | 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) | 120 | 1 | 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 | 5 | 19 | 135 |
| 64 (June 1978) | 125 | 4 | 7 | 136 |
| 65 (June 1979) | 123 | 3 | 13 | 139 |
| 66 (June 1980) | 119 | - ¹ | 25 | 144 |
| 67 (June 1981) | 123 | 8 | 14 | 145 |
| 68 (June 1982) | 123 | 4 | 23 | 150 |
| 69 (June 1983) | 121 | 3 | 26 | 150 |
| 70 (June 1984) | 112 | - ¹ | 38 | 150 |
| 71 (June 1985) | 109 | 8 | 33 | 150 |
| 72 (June 1986) | 109 | - | 41 | 150 |
| 74 (Sept.-Oct. 1987) | 92 | 1 | 57 | 150 |
| 75 (June 1988) | 73 | 3 | 74 | 150 |
| 76 (June 1989) | 51 | - | 99 | 150 |

¹ At this session the Conference adopted one Recommendation only.





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