

Bibliothèque du BIT, CH-1211 Genève 22 25 MAY 1992

P09661/2 (ILO)

ILO. - INFORMATION AND REPORTS ON THE Conference  
APPLICATION OF CONVENT ion 1992

---

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  
79th Session 1992

---

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

ISBN 92-2-107979-1  
ISSN 0074-6681

---

*First published 1992*

---

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.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

---



## TABLE OF CONTENTS

	<u>Page</u>
Part 1: Summary of reports on ratified Conventions (Articles 22 and 35 of the Constitution) .....	1
Part 2: Summary of reports on Minimum Wage Fixing Machinery Convention, 1928 (No. 26) and Minimum Wage Fixing Machinery Recommendation, 1928 (No. 30); Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) and Minimum Wage Fixing Machinery (Agriculture) Recommendation, 1951 (No. 89); Minimum Wage Fixing Convention, 1970 (No. 131) and Minimum Wage Fixing Recommendation, 1970 (No. 135) (Article 19 of the Constitution) .....	23
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) .....	31

---



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 1991.

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



SUMMARY OF REPORTS ON THE APPLICATION OF RATIFIED CONVENTIONS RECEIVED

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

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Afghanistan		13, 44, 100	139, 140, 141, 142	14, 41, 45, 106, 111
Algeria		19, 94, 95, 122	32, 62, 73, 96, 97, 101	150
Angola		19, 29, 81, 100, 105, 111	98	6, 14, 27, 45, 73, 89, 106, 107
Argentina	156	100, 139, 142, 159	32	5, 10, 13, 16, 19, 27, 29, 33, 34, 53, 73, 111
Australia		81, 87, 100, 105, 122, 123, 142, 160	8, 10, 11, 19, 27, 144	29
Norfolk Island		98	10	27, 29, 105

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Austria		5, 29, 33, 81, 100, 103, 122, 142, 160	19, 27, 98, 135, 141	10, 13, 87, 105
Bahrain		29, 81		14
Bangladesh		29, 81, 96, 105, 144	27	16, 19, 59, 118
Belarus, Republic of		29, 100, 142	27, 32	16, 73, 113, 138
Belgium	138, 149, 154	13, 29, 100, 105, 111, 122	6, 19, 62, 81, 89, 95, 97, 101, 120, 144	14, 27, 32, 77, 124
Belize		5, 10, 16, 29, 105	81	19
Benin		29, 100, 105, 111, 143	11, 87, 95, 98	5, 6, 13, 14, 33, 41
Bolivia		5, 81, 96, 100, 118, 122, 123, 129, 136	121, 124, 128, 130	19
Botswana				19
Brazil	81	5, 12, 19, 29, 53, 94, 97, 100, 105, 106, 118, 125, 142, 148		16, 111, 113, 122



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Bulgaria		29, 62, 111		16, 19, 27, 32, 73, 100, 113, 138
Burkina Faso		111, 150	87, 95	11, 14, 97, 132, 143
Burundi		19, 29, 81, 105	62	27, 59
Cameroon		29, 100, 105		5, 10, 16, 19, 33, 123, 135
Canada		63, 100, 105, 122	14, 16, 73	27, 32, 69, 74
Cape Verde			98	
Central African Republic		118	87, 98	5, 11, 14, 33, 41, 62, 101
Chad		29, 100, 105	13, 81	5
Chile		3, 29, 63, 100, 111, 122	19, 32	10, 13, 16, 27
China		16, 59	32	19, 27

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Colombia	5, 159	3, 10, 12, 17, 29, 81, 87, 88, 95, 100, 106, 107, 129	11, 14, 19, 24, 25, 52, 62, 98, 101, 136	13
Comoros		19, 29	81, 100	5, 33
Congo				10, 33
Costa Rica		130, 144	102, 135	5, 122
Côte d'Ivoire		52	96	13, 29, 33, 100, 105, 135, 136
Cuba		1, 29, 63, 81, 95, 105, 122, 138, 142, 152	13, 96, 135, 141, 151	16, 19, 27, 53, 87, 100, 113, 136
Cyprus		87, 100, 105, 123, 152, 159	19, 81, 142, 144, 151	29, 106, 114, 141, 143
Czechoslovakia	161	11, 29, 87, 98, 115, 122, 130, 160	14, 52, 77, 78, 124, 140	
Denmark	119, 148, 152, 160	29, 100, 134, 139	5, 16, 73, 118, 135, 142, 151	19, 27, 62, 105, 141
Faeroe Islands				11, 14, 52, 87

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Greenland			5	16, 19, 29, 105
Djibouti		17	44, 88	6, 11, 22, 45, 52, 77, 78, 87, 89, 94, 95, 98, 101, 106, 115, 122, 124
Dominican Republic		10, 29, 81, 95, 100, 105, 111	5, 19	89
Ecuador	152	29, 81, 100, 103, 105, 113, 118, 123, 142, 144	87, 98, 141	
Egypt	152	29, 53, 63, 96, 100, 105, 139, 142, 147	81	19, 62, 69, 73, 74, 134, 135
El Salvador				107
Equatorial Guinea		30, 100, 138		
Fiji		29		19, 59, 85
Finland	88	47, 96, 98, 100, 134, 136, 138, 147, 152, 160, 161	16, 53, 73, 81, 118, 129, 135, 139, 141, 151	13, 19, 27, 29, 105

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
France	156, 158, 159	14, 29, 42, 100, 105, 106, 115, 118, 129, 142, 144	19, 87, 88, 135, 140, 141	16, 73, 77, 78, 81, 113, 124
<u>Overseas Departments:</u>  French Guiana		29, 42, 115	10, 19, 141	16, 73, 87, 105, 113, 123, 124, 129, 135, 142
Guadeloupe		29, 42, 115	10, 19, 141	16, 73, 87, 105, 113, 123, 124, 129, 135, 142
Martinique		29, 42, 115	10, 19, 141	16, 73, 87, 105, 113, 123, 124, 129, 135, 142
Réunion		29, 42, 115	10, 19, 141	16, 73, 87, 105, 113, 123, 124, 129, 135, 142
Territorial Community of St. Pierre and Miquelon		115	10, 19, 88, 141	16, 29, 73, 87, 105, 123, 124, 129, 142

Country	A Conventions Nos.	8 Conventions Nos.	C Conventions Nos.	D Conventions Nos.
<u>Overseas Territories:</u>				
French Polynesia		5, 10, 13, 19, 29, 33, 53, 63, 69, 100, 120, 142	96, 123, 125, 141	16, 73, 105, 129
New Caledonia		19, 29, 122	5, 10, 33, 96, 123, 141	16, 24, 44, 73, 100, 105
Gabon	144, 154, 158	13, 29, 81, 87, 100, 123		5, 10, 19, 33, 52, 96, 101, 135
Germany		3, 22, 29, 122, 138, 142	81, 97, 134, 136, 139, 140, 141, 152	16, 62, 73, 105, 113
Ghana	150	29, 100, 105, 111, 128, 130, 149	87, 94	16, 19, 59, 69, 74, 89, 96, 151
Greece	149, 156	69, 100, 105, 111, 122, 134, 144, 147, 159	62, 87, 98, 102	16, 29, 73
Grenada		14, 29, 81, 105	94, 95, 98	5, 11, 19, 97
Guatemala		122		
Guinea		29, 95, 100, 105, 111, 115, 118, 122, 132, 139, 140, 143, 149	87, 94, 98, 134, 151, 152	5, 11, 14, 16, 33, 62, 113, 117, 135, 150

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Guinea-Bissau		18		
Guyana		87, 144, 149, 150	95, 98	11, 29, 45, 94, 97, 105, 111, 115, 141
Haiti		100		
Honduras	138	81, 111	27, 87	32, 62, 100, 105
Hungary		13, 29, 135, 139, 142	136, 140	10, 16, 19, 100, 123
Iceland		100, 102, 105, 111	11	29
India		14, 32, 88	11, 16, 19, 27, 123	144
Indonesia		29, 100	27	
Iran, Islamic Republic of		14, 29, 105, 106		
Iraq	120	13, 17, 29, 81, 95, 105, 108, 122, 136, 138, 142, 146, 153	19, 100, 132, 152	11, 14, 16, 27, 106, 135

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Ireland		81, 98, 100, 138	19, 87, 96, 142	11, 144
Israel		29, 111, 122, 138, 150	96, 141, 142	19
Italy	160	13, 29, 81, 97, 105, 111, 115, 118, 122, 129, 138, 142, 143, 145, 147, 148, 150	14, 19, 32, 73, 78, 95, 96, 106, 117, 135, 141, 151	27, 44, 77, 124, 139, 144
Jamaica		29, 81, 97, 100, 105, 149	98	5, 10, 16
Japan		29, 96, 100, 142, 147	16, 27, 73, 134	19, 69
Jordan		29, 81, 111, 120	119, 122	98
Kenya		17, 29, 105, 118, 138, 142, 143	19, 27, 32, 63, 135, 141	16
Kuwait		29, 105, 117	87, 106, 111	52, 81, 89
Libyan Arab Jamahiriya		29, 88, 95, 100, 105, 138	98, 118	14, 89, 96, 102, 121, 122, 128, 130
Luxembourg		14, 29, 96, 100, 102, 138	13, 19, 77, 78, 132	11, 16, 27, 81, 87, 98, 105, 135
Malawi		100, 111, 144, 149	98	11

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Malaysia		12, 14, 98	95	97
Sabah				16
Sarawak			16	19
Mali				5, 13, 19, 33, 100
Malta	131, 132, 135, 138, 141, 148	62, 81, 96, 100	13	5, 16, 19, 29, 32, 105
Mauritania		22, 29		5, 11, 19, 23, 33, 62, 87, 112, 118
Mauritius		19, 32, 95, 105	74	16, 29, 63
Mexico		34, 53, 100, 118, 142, 161	13, 27, 134, 152	16, 19, 29, 105, 123, 141
Mongolia		87, 98, 111, 122		
Morocco		100		4, 11, 81
Mozambique		81, 111		



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Nepal		100		
Netherlands		13, 29, 32, 69, 74, 100, 122, 129, 138, 142, 145, 147, 151	62, 73, 81, 118, 135, 144	16, 19, 27, 105, 113, 141
Aruba	113, 114, 126, 129, 131, 135, 138, 144, 147	14, 95, 101, 106	11, 81, 87	9, 22, 29, 45, 88, 89, 90
Netherlands Antilles		33, 44		10, 29, 87, 105, 118
New Zealand		14, 42, 52, 53, 63, 69, 74, 81, 100, 105, 134	10, 47, 59	16, 29, 32
Tokelau		100, 111		29, 82, 105
Nicaragua		3, 29, 105, 111, 138, 140, 144	27, 87, 98, 135	11
Niger		81, 100, 111, 138, 156, 158	13, 87, 95, 98, 117, 154	11, 14, 135
Nigeria		29, 32, 87	81	16, 59
Norway	97	22, 53, 69, 96, 100, 118, 122, 134, 138, 139, 143, 152	19, 87, 129, 132, 141, 142	16, 27, 29, 73, 81, 105, 113, 135, 151

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Pakistan	59	87, 98		
Panama		29, 52, 87, 94, 96, 100, 105, 107, 117, 122	10, 11, 32, 77, 78, 95, 98	16, 19, 113, 123, 124
Papua New Guinea				59
Paraguay		29, 105, 111, 115, 117, 122	77, 87, 98, 100	60, 78, 123
Peru	106	29, 68, 69, 105, 107, 111, 122, 139, 156	10, 11, 19, 32, 62, 77, 81, 87, 98, 100, 113, 151	14, 52, 59, 73, 78, 101, 114
Philippines		17, 59, 100, 105, 141		
Poland		9, 29, 69, 87, 96, 98, 100, 105, 122, 142, 151	12, 16, 17, 19, 62, 73, 74, 135, 138	13, 24, 25, 27, 35, 36, 37, 38, 42, 113, 123, 134
Portugal		19, 29, 63, 69, 74, 81, 96, 100, 105, 111, 129, 142, 147, 150	68, 73, 151	27, 105, 135
Qatar		111		
Romania		29, 87, 98, 100, 111, 135	13, 81, 129, 134, 138	16, 27, 136

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Russian Federation	148	29, 100, 122	27, 32	16, 69, 73, 113, 138
Rwanda		12, 81, 100, 105, 118, 123, 138	62, 94, 135	19
Saint Lucia		100	5, 87, 98	94, 97, 111
San Marino	148, 151, 156, 160, 161	100, 159	111	
Sao Tome and Principe		17, 18, 19, 100, 111		81
Saudi Arabia		29	81, 100	105, 123
Senegal		105, 120	81	6, 122
Singapore		5, 29, 81, 98		11, 16, 19, 32, 94
South Africa		42	63	45, 89
Spain	102	19, 29, 53, 81, 96, 100, 134, 135, 136, 138, 142, 144, 152, 157, 158	13, 16, 27, 62, 69, 73, 123, 129, 141, 150, 151	74, 113

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Sudan		29, 81, 100, 105, 122		
Suriname		29, 105, 118	151	13, 19, 27, 62, 96, 135
Swaziland				19, 29, 59, 96, 100, 105
Sweden		13, 29, 96, 105, 134, 139, 151	135, 142	19, 81, 105, 141
Switzerland		29, 136, 160	19, 62, 81, 141, 142	5, 16, 27, 105, 123, 139, 151
Syrian Arab Republic		19, 29, 96, 100, 105, 107, 111, 118, 129	81, 87, 88, 94	52, 123, 124, 144
Tanzania, United Republic of		17, 135	63, 81, 98, 140, 142	29, 59, 105
Togo		13, 29, 87, 100, 138		85
Trinidad and Tobago		87, 98, 125	85	16, 19
Tunisia	142, 150, 159	13, 29, 55, 59, 81, 105, 118		16, 19, 62, 100, 123

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Turkey		81, 100, 105, 118	96	
Uganda		29, 81, 122, 123		5, 19
Ukraine		29, 100, 142		27, 32, 73, 113, 138
United Arab Emirates		29, 81		
United Kingdom		10, 29, 32, 69, 100, 105, 122, 142	19, 87, 97, 141, 144	5, 16, 135
Anguilla		29		19, 59, 105
Bermuda		59		10, 16, 19, 29, 105, 135
British Virgin Islands		17		10, 19, 29, 59, 85, 105
Falkland Islands (Malvinas)			59	10, 19, 29, 105, 141
Gibraltar	147, 160	29, 59, 81, 100	142	16, 19, 105, 135, 151

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Guernsey			24, 25, 63, 81, 151	5, 16, 19, 29, 105, 135, 142
Hong Kong		105, 142	19, 59, 63, 74, 81, 141, 151	10, 16, 29
Isle of Man		68, 69, 126, 147	5, 10, 19, 81	29, 74, 105
Jersey	160		19, 24, 25, 95	5, 10, 16, 44, 105 115, 140
Montserrat		105	19	16, 29, 59, 85
St. Helena			10, 59, 63	16, 19, 29, 85, 105, 151
United States	147	53, 74	58	
American Samoa	144, 147	53		
Guam	144, 147	53, 74		
Pacific Islands (Trust Territory)	144			
Northern Mariana Islands	144, 147	53		

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Palau	144, 147	53		
Puerto Rico	144, 147	53, 74		
United States Virgin Islands	144	53, 74		
Uruguay	148, 155, 161	62, 118, 122, 134, 136	16, 32	138, 144
Venezuela	138	121	128, 130, 141	
Yemen		19, 29, 59, 105, 132	87, 98, 135	16
Yugoslavia	155	140	87, 98, 106	81
Zambia	159	29, 100, 105, 123, 136, 138, 141	135, 151	19
Zimbabwe	100, 144		154	14





Part 2

Summary of reports on

Minimum Wage Fixing Machinery Convention, 1928 (No. 26)  
and Minimum Wage Fixing Machinery Recommendation,  
1928 (No. 30); Minimum Wage Fixing Machinery (Agriculture)  
Convention, 1951 (No. 99) and Minimum Wage Fixing  
Machinery (Agriculture) Recommendation, 1951 (No. 89);  
Minimum Wage Fixing Convention, 1970 (No. 131)  
and Minimum Wage Fixing Recommendation, 1970 (No. 135)

(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 Minimum Wage Fixing Machinery Convention, 1928 (No. 26) and Minimum Wage Fixing Machinery Recommendation, 1928 (No. 30); Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) and Minimum Wage Fixing Machinery (Agriculture) Recommendation, 1951 (No. 89); Minimum Wage Fixing Convention, 1970 (No. 131) and Minimum Wage Fixing Recommendation, 1970 (No. 135).

The governments of member States were requested to send their reports to the International Labour Office by 1st July 1991.

The report of the Committee of Experts on the Application of Conventions and Recommendations, which will be submitted to the Conference at its 79th (1992) Session, will include a general survey on the reports on the above-mentioned Conventions and Recommendations (Report III, Part 4B).

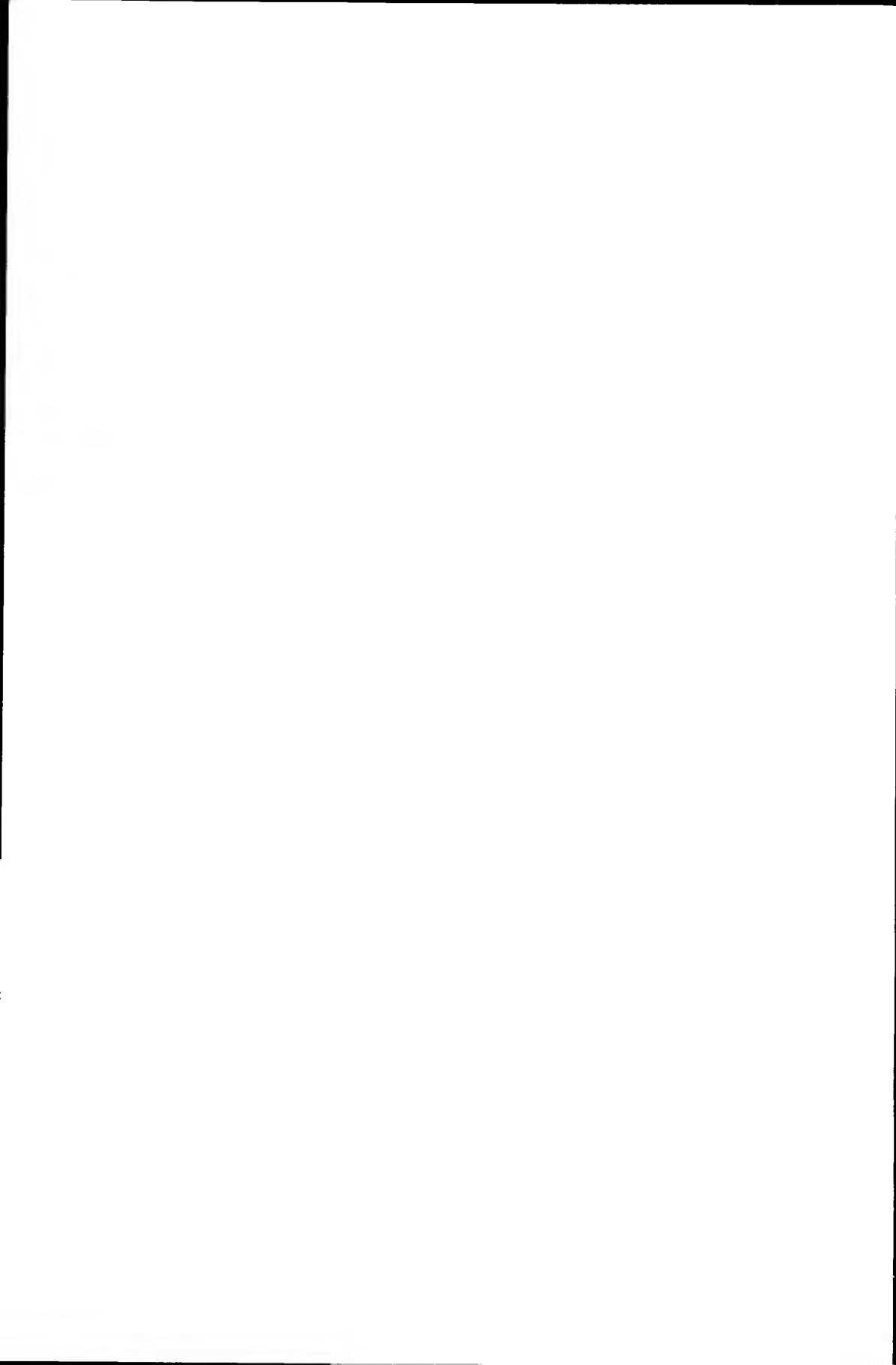


TABLE OF REPORTS REQUESTED AND RECEIVED  
FROM MEMBER STATES OF THE ILO  
25 MARCH 1992

(Article 19 of the Constitution)

Member States	Conventions				Recommendations		
	26	99	131		30	89	135
	Rat. A.19	Rat. A.19	Rat. A.19		Art. 19		
Afghanistan	-	X		X	X	X	X
Algeria	-	X		X	X	X	X
Angola	R	-		X	X	X	X
Antigua and Barbuda	-	-		-	-	-	-
Argentina	R	X		X	X	X	X
Australia	R	-	R	X	X	X	X
Austria	R	R		X	X	X	X
Bahamas	R	-	X	X	X	X	X
Bahrain	-	-	-	-	-	-	-
Bangladesh	-	X	X	X	X	X	X
Barbados	R	-	-	-	-	-	-
Belarus, Rep. of	-	X	X	X	X	X	X
Belgium	R	R		X	X	X	X
Belize	R	-		X	-	-	-
Benin	R	-	X	X	X	X	X
Bolivia	R	-	R	X	-	-	-
Botswana	-	X	X	X	X	X	X
Brazil	R	-	R	X	X	X	X
Bulgaria	R	-	X	X	X	X	X
Burkina Faso	R	-	X	X	X	X	X
Burundi	R	-	X	X	X	X	X
Cambodia	-	-	-	-	-	-	-
Cameroon	R	R	R	X	X	X	X
Canada	R	-	X	X	X	X	X
Cape Verde	-	-	-	-	-	-	-
Central African Rep.	R	R		X	X	X	X
Chad	R	-	X	X	X	X	X
Chile	R	-	X	X	X	X	X
China	R	-	-	X	X	X	X
Colombia	R	-	R	X	X	X	X
Comoros	R	R	-	-	-	-	-
Congo	R	-	-	-	-	-	-
Costa Rica	R	R	-	R	X	X	X
Côte d'Ivoire	R	R	-	X	X	X	X
Cuba	R	-	-	-	-	-	-
Cyprus	-	-	-	-	-	-	-

Member States	Conventions				Recommendations		
	26	99		131	30	89	135
		Rat. A.19	Rat. A.19				
Czech and Slovak Fed. Rep.	R	-	R	-	X	X	X
Denmark	-	X	-	-	X	X	X
Djibouti	R	-	R	-	X	X	X
Dominica	R	-	-	-	-	-	-
Dominican Republic	R	-	-	-	X	X	X
Ecuador	R	-	-	R	X	X	X
Egypt	R	-	-	R	-	-	-
El Salvador	-	-	-	-	-	-	-
Equatorial Guinea	-	X	-	-	X	X	X
Ethiopia	-	X	-	-	X	X	X
Fiji	R	-	-	-	X	X	X
Finland	-	X	-	-	X	X	X
France	-	-	R	R	-	X	X
Gabon	R	-	R	-	X	X	X
Germany	R	-	R	-	X	X	X
Ghana	R	-	-	-	X	X	X
Greece	-	X	-	-	X	X	X
Grenada	R	-	R	-	-	-	-
Guatemala	R	-	R	R	-	X	X
Guinea	R	-	R	-	-	-	-
Guinea-Bissau	R	-	-	-	-	-	-
Guyana	R	-	-	R	-	X	X
Haiti	-	-	-	-	-	-	-
Honduras	-	X	-	-	X	X	X
Hungary	R	-	R	-	X	X	X
Iceland	-	X	-	-	X	X	X
India	R	-	-	-	X	X	X
Indonesia	-	X	-	-	X	X	X
Iran, Islamic Rep. of	-	X	-	-	X	X	X
Iraq	R	-	-	R	-	-	-
Ireland	R	-	R	-	-	-	-
Israel	-	X	-	-	X	X	X
Italy	R	-	R	-	-	-	-
Jamaica	R	-	-	-	-	-	-
Japan	R	-	-	R	-	X	X
Jordan	-	X	-	-	-	X	X
Kenya	R	-	R	-	-	-	-
Kuwait	-	-	-	-	-	-	-
Lap People's Dem. Rep.	-	-	-	-	-	-	-
Lesotho	R	-	-	-	-	-	-
Lebanon	R	-	-	R	-	X	X
Liberia	-	-	-	-	-	-	-

Member States	Conventions				Recommendations				
	26	99		131	30	89	135		
		Rat. A.19	Rat. A.19						
Libyan Arab Jamahiriya	R	-	-	R	-	-	X	-	-
Luxembourg	R	-	-	-	X	-	X	-	X
Madagascar	R	-	-	-	-	-	-	-	-
Malaysia	-	-	-	-	-	-	-	-	-
Malawi	-	-	R	-	-	-	-	-	-
Mali	R	-	-	-	-	-	-	-	-
Malta	R	-	-	R	-	-	X	X	X
Mauritania	R	-	-	-	X	-	X	X	X
Mauritius	R	-	-	-	X	-	X	X	X
Mexico	R	-	R	-	-	-	X	X	X
Mongolia	-	-	-	-	-	-	-	-	-
Morocco	-	-	R	-	-	-	X	X	X
Mozambique	-	X	-	-	X	-	X	X	X
Myanmar	R	-	-	-	X	-	X	X	X
Namibia	-	X	-	-	X	-	X	X	X
Nepal	-	X	-	R	-	-	X	X	X
Netherlands	-	-	-	R	-	-	X	X	X
New Zealand	-	-	R	-	-	-	X	X	X
Nicaragua	R	-	-	-	-	-	X	X	-
Niger	R	-	-	-	-	-	-	-	-
Nigeria	R	-	-	-	X	-	-	X	X
Norway	R	-	-	-	X	-	X	X	X
Pakistan	-	X	-	-	X	-	X	X	X
Panama	-	-	-	-	X	-	X	X	X
Papua New Guinea	R	-	R	-	-	-	-	-	-
Paraguay	R	-	R	-	-	-	X	X	X
Peru	R	-	R	-	-	-	X	X	X
Philippines	-	X	R	-	-	-	X	X	X
Poland	-	X	R	-	-	-	X	X	X
Portugal	R	-	-	R	-	-	X	X	X
Qatar	-	X	-	-	X	-	X	X	X
Romania	-	X	-	-	X	-	X	X	X
Russian Federation	-	-	-	-	-	-	-	-	-
Rwanda	-	-	-	-	X	-	-	X	-
Saint Lucia	R	-	-	-	-	-	-	-	-
San Marino	-	X	-	-	X	-	X	-	X
Sao Tome and Principe	-	-	-	-	-	-	-	-	-
Saudi Arabia	-	X	-	-	X	-	X	-	X
Senegal	R	-	R	-	-	-	-	-	-
Seychelles	R	-	R	-	-	-	-	-	-
Sierra Leone	R	-	R	R	-	-	-	-	-
Singapore	-	X	-	-	X	-	X	X	-
Solomon Islands	-	-	-	-	-	-	-	-	-

Member States	Conventions						Recommendations		
	26		99		131		30	89	135
	Rat.	A.19	Rat.	A.19	Rat.	A.19	Art. 19		
Somalia	-	-	-	-	-	-	-	-	-
Spain	R	-	R	-	R	-	X	X	X
Sri Lanka	R	-	R	-	R	-	X	X	X
Sudan	R	-	-	X	-	X	X	X	X
Suriname	-	X	-	X	-	X	X	X	X
Swaziland	R	-	R	-	R	-	X	X	X
Sweden	-	X	-	X	-	X	X	X	X
Switzerland	R	-	-	X	-	X	X	X	X
Syrian Arab Republic	R	-	R	-	R	-	X	X	X
Tanzania, United Rep. of	R	-	-	-	R	-	-	-	-
Thailand	-	-	-	-	-	-	-	-	-
Togo	R	-	-	X	-	X	X	X	X
Trinidad and Tobago	-	X	-	X	-	X	X	X	X
Tunisia	R	-	R	-	-	X	X	X	X
Turkey	R	-	R	-	-	X	X	X	X
Uganda	R	-	-	X	-	X	X	X	X
Ukraine	-	X	-	X	-	X	X	X	X
United Arab Emirates	-	-	-	-	-	-	-	-	-
United Kingdom	R	-	R	-	-	X	X	X	X
United States	-	X	-	X	-	X	X	X	X
Uruguay	R	-	R	-	R	-	-	-	-
Venezuela	R	-	-	-	-	-	-	-	-
Yemen	-	-	-	-	R	-	-	-	-
Yugoslavia	-	X	-	X	R	-	X	X	X
Zaire	R	-	-	-	-	-	-	-	-
Zambia	R	-	R	-	R	-	X	X	X
Zimbabwe	-	X	-	X	-	X	X	X	X

In addition, a total of 62 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, Gibraltar, Guernsey, Hong Kong, Jersey, Montserrat).

R = Conventions ratified.

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 Conventions and Recommendations adopted by the Conference at its 77th Session held in Geneva from 6 to 27 June 1990.

The period of one year provided for the submission to the competent authorities of the instruments in question expired on 27 June 1991 and the period of 18 months on 27 December 1991.

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 76th Sessions (1948 to 1989). 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 78th 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 66th TO 77th SESSIONS

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 (1989)

Indigenous and Tribal Peoples Convention (No. 169).

77th Session (1990)

Chemicals Convention (No. 170);

Night Work Convention (No. 171);

Chemicals Recommendation (No. 177);

Night Work Recommendation (No. 178).





SUMMARY OF INFORMATION RELATING TO THE SUBMISSION TO  
THE COMPETENT AUTHORITIES OF THE CONVENTIONS AND  
RECOMMENDATIONS ADOPTED BY THE INTERNATIONAL LABOUR  
CONFERENCE AT ITS 77th SESSION (GENEVA, 1990) AND  
SUPPLEMENTARY INFORMATION ON THE TEXTS ADOPTED AT  
ITS 31st TO 76th SESSIONS (1948-1989)

Argentina. The instrument adopted at the 76th Session of the Conference has been submitted to Congress.

Australia. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 18 December 1991. Ratification of Convention No. 170 has been proposed.

Austria. The instrument adopted at the 76th Session of the Conference was submitted to the National Assembly in October 1991.

Barbados. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 12 March 1991.

Belarus, Republic of. The instruments adopted at the 77th Session of the Conference were submitted to the Supreme Soviet in May 1991.

Botswana. The instruments adopted at the 74th Session of the Conference were submitted to Parliament in June 1989.

Brazil. The instruments adopted at the 74th-77th Sessions of the Conference have been submitted to Congress.

Burkina Faso. The instruments adopted at the 75th and 76th Sessions of the Conference were submitted to the competent authorities on 21 January 1991.

Burundi. The instruments adopted at the 76th and 77th Sessions of the Conference were submitted to the President of the Republic on 15 July 1991.

Colombia. The instrument adopted at the 76th Session of the Conference was submitted to Congress and ratified on 7 August 1991.

Comoros. The instruments adopted at the 75th, 76th and 77th Sessions of the Conference were submitted to the Federal Assembly on 5 December 1991. Ratification of Convention No. 172 has been proposed.

Costa Rica. Recommendations Nos. 167 and 170-178, adopted at the 69th and 71st-77th Sessions of the Conference, were submitted to the Legislative Assembly on 10 May 1991.

Côte d'Ivoire. The instruments adopted at the 77th Session of the Conference of the Conference were submitted to the National Assembly on 3 November 1990.

Cuba. The instruments adopted at the 77th Session of the Conference have been submitted to the Council of Ministers.

Dominica. The instruments adopted at the 68th, 70th, 72nd and 77th Sessions of the Conference, and Convention No. 159 and Recommendation No. 167 (69th Session), were submitted to Parliament on 26 March and 27 August 1991.

Egypt. The instruments adopted at the 76th and 77th Sessions of the Conference have been submitted to the People's Assembly.

Equatorial Guinea. The instrument adopted at the 76th Session of the Conference was submitted to the House of Representatives in December 1991.

Finland. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 20 September 1991.

France. Convention No. 171 and Recommendation No. 178, adopted at the 77th Session of the Conference, were submitted to Parliament on 31 December 1991. Ratification of the Convention may be envisaged.

Germany. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 5 February 1992. Ratification of Convention No. 162 has been proposed. Convention No. 153 and Recommendation No. 161 (65th Session), Convention No. 167 and Recommendation No. 175 (75th Session) and the instrument adopted at the 76th Session were submitted on 19 February 1992. Ratification of Convention No. 167 has been proposed.

Ghana. The instruments adopted at the 77th Session of the Conference were submitted to the Provisional National Defence Council on 17 December 1990.

Greece. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 22 May 1991.

Guatemala. Convention No. 167 and Recommendation No. 175, adopted at the 75th Session of the Conference, have been submitted to Congress. The Convention has been ratified.

Haiti. Convention No. 161, adopted at the 71st Session of the Conference, was submitted to the National Assembly on 23 January 1992. Its ratification has been proposed.

Iceland. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 19 February 1991.

Indonesia. The instruments adopted at the 77th Session of the Conference were submitted to the House of Representatives on 20 November 1990.

Islamic Republic of Iran. The instruments adopted at the 77th Session of the Conference were submitted to the Islamic Consultative Assembly on 14 May 1991.

Israel. The instruments adopted at the 76th and 77th Sessions of the Conference were submitted to Parliament on 15 October 1991.

Japan. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 7 May 1991.

Lao People's Democratic Republic. The instruments adopted at the 77th Session of the Conference were submitted to the People's Assembly on 8 November 1991. Ratification of Convention No. 170 has been proposed.

Malta. The instruments adopted at the 77th Session of the Conference were submitted to the House of Representatives on 25 March 1991.

Mauritania. The instruments adopted at the 77th Session of the Conference were submitted to the Military Committee for National Salvation on 20 December 1990.

Mauritius. Convention No. 140 and Recommendation No. 148, adopted at the 59th Session of the Conference, and Conventions Nos. 154 and 156 and Recommendations Nos. 163 and 165 (67th Session) were submitted to Parliament on 28 June 1991.

Morocco. The instruments adopted at the 74th, 75th and 76th Sessions of the Conference have been submitted to the House of Representatives.

Netherlands. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 31 October 1990.

New Zealand. The instruments adopted at the 77th Session of the Conference were submitted to the House of Representatives on 8 May 1991.

Nicaragua. The instruments adopted at the 77th Session of the Conference were submitted to the National Assembly on 6 December 1990.

Norway. The instruments adopted at the 77th Session of the Conference were submitted to Parliament in November 1991.

Paraguay. Convention No. 159 and Recommendation No. 168, adopted at the 69th Session of the Conference, have been submitted to the competent authorities. The Convention has been ratified.

Peru. Convention No. 170 and Recommendation No. 177, adopted at the 77th Session of the Conference, were submitted to Congress on 11 September 1991.

Poland. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 23 November 1990.

Romania. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 24 January 1991.

San Marino. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 17 December 1990.

Saudi Arabia. The instruments adopted at the 77th Session of the Conference were submitted to the Council of Ministers on 24 October 1990.

Singapore. The instruments adopted at the 77th Session of the Conference were submitted to Parliament on 6 January 1992.

Spain. Recommendation No. 169, adopted at the 70th Session of the Conference, was submitted to the Cortes on 8 June 1989. Convention No. 165 (74th Session) was also submitted and ratified. The instruments adopted at the 77th Session have been submitted to the Cortes.

Sweden. The instrument adopted at the 76th Session of the Conference was submitted to Parliament on 20 December 1990. The instruments adopted at the 77th Session were submitted on 19 December 1991. Ratification of Convention No. 170 has been proposed.

Switzerland. The instruments adopted at the 76th and 77th Sessions of the Conference were submitted to Parliament on 3 June 1991.

Togo. The instruments adopted at the 77th Session of the Conference were submitted to the National Assembly in April 1991.

Tunisia. The instruments adopted at the 77th Session of the Conference were submitted to the Chamber of Deputies on 26 September 1990.

Turkey. The instruments adopted at the 77th Session of the Conference were submitted to the Grand National Assembly on 18 December 1990.

Ukraine. The instruments adopted at the 77th Session of the Conference were submitted to the Supreme Soviet on 7 August 1991.

United Arab Emirates. The instruments adopted at the 77th Session of the Conference were submitted to the Council of Ministers on 7 September 1991.

United Kingdom. The instruments adopted at the 77th Session of the Conference were submitted to Parliament in June 1991.

United States. The instrument adopted at the 76th Session of the Conference was submitted to Congress on 20 November 1990. The instruments adopted at the 77th Session were submitted on 21 October 1991.

Uruguay. The instruments adopted at the 75th Session of the Conference were submitted to the General Assembly on 2 May 1991.

Yugoslavia. The instruments adopted at the 75th Session of the Conference were submitted to the Federal Assembly in June 1990. Ratification of Conventions Nos. 167 and 168 has been proposed.

Zimbabwe. The instruments adopted at the 76th and 77th Sessions of the Conference were submitted to Parliament on 19 March 1991.





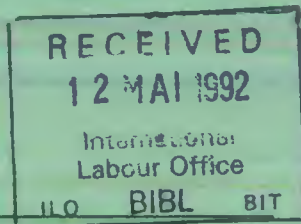
Price: 10 Swiss francs

ISBN 92-2-107979-1



P09661/4

International Labour Conference  
79th Session 1992



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  
79th Session 1992

---

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

ISBN 92-2-107965-1  
ISSN 0074-6681

---

*First published 1992*

---

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.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

---

## CONTENTS

### Page

Index to comments made by the Committee, by country .....	IX
---	----

### PART ONE

#### GENERAL REPORT

I. <u>Introduction</u> .....	3
II. <u>General</u> .....	8
Membership of the Organisation .....	8
New standards adopted by the Conference in 1991 .....	8
Ratifications and denunciations .....	9
Constitutional and other procedures .....	11
A. Complaints submitted under article 26 of the ILO Constitution .....	11
B. Representations submitted under article 24 of the ILO Constitution .....	12
C. Special procedures concerning freedom of association .	14
Functions in regard to other international and regional instruments .....	14
A. International Covenant on Economic, Social and Cultural Rights .....	14
B. United Nations Convention on the Elimination of All Forms of Discrimination against Women .....	15
C. European Code of Social Security and Protocol thereto .....	15
D. European Social Charter and Additional Protocol .....	15

	<u>Page</u>
Collaboration with other international organisations .....	16
Cooperation with the United Nations, its specialised agencies and other institutions as regards standards .....	16
Matters relating to human rights .....	17
Questions concerning the application of Conventions .....	18
Application of the Employment Policy Convention, 1964 (No. 122) .....	18
Application of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) .....	21
Application of the Equal Remuneration Convention, 1951 (No. 100) .....	22
Application of Conventions on the minimum age for admission to employment (Nos. 5, 59 and 138) .....	22
Matters relating to "international" shipping registers and flag transfers .....	24
Application of Conventions to offshore industrial installations .....	24
Application of Conventions in export processing zones or enterprises .....	25
III. <u>Direct contacts and cooperation in the field of standards</u> .....	25
A. Direct contacts and cooperation in the field of standards .....	25
B. Standards and technical cooperation .....	26
IV. <u>Action concerning the elimination of discrimination: Special reports on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), from countries that have not ratified it</u> .....	28
V. <u>Role of employers' and workers' organisations</u> .....	32
Observations made by employers' and workers' organisations	33

	<u>Page</u>
VI. <u>Reports on ratified Conventions</u> (articles 22 and 35 of the Constitution) .....	36
Supply of reports .....	36
Reports requested and received .....	37
Compliance with reporting obligations .....	37
Late reports .....	38
Supply of first reports .....	39
Replies to comments of the supervisory bodies .....	39
Examination of reports .....	40
Observations and direct requests .....	41
Cases of progress .....	41
Practical application .....	43
VII. <u>Submission of Conventions and Recommendations to the</u> <u>competent authorities</u> (article 19, paragraphs 5, 6 and 7 of the Constitution) .....	44
77th Session .....	45
31st to 76th Sessions .....	45
General aspects .....	45
Comments of the Committee and replies from governments ...	46
Special problems .....	46
Submission of certain instruments to the appropriate authorities of the European Communities .....	47
VIII. <u>Instruments chosen for reports under</u> <u>article 19 of the Constitution</u> .....	47
General Survey .....	48
Appendix I. List of the 40 ILO member States which have been asked to submit reports on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ...	50

## PART TWO

## OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I.	<u>Observations concerning annual reports on ratified Conventions</u> (article 22 of the Constitution) .....	55
A.	General observations .....	55
B.	Individual observations .....	61
	Appendix I. Receipt of detailed reports on ratified Conventions (States Members) as at 25 March 1992 .....	519
	Appendix II. Statistical table of reports received on ratified Conventions as at 25 March 1992 .....	530
II.	<u>Observations on the application of Conventions in non-metropolitan territories</u> (articles 22 and 35, paragraphs 6 and 8, of the Constitution) .....	532
A.	General observations .....	532
B.	Individual observations .....	532
	Appendix. Receipt of detailed reports on ratified Conventions (non-metropolitan territories) as at 25 March 1992 .....	550
III.	<u>Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference</u> (article 19 of the Constitution) .....	553
	Appendix I. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities .....	570
	Appendix II. Overall position of member States as at 25 March 1992 .....	578



PART THREE

GENERAL SURVEY OF THE REPORTS ON THE  
MINIMUM WAGE FIXING MACHINERY CONVENTION (No. 26) AND  
RECOMMENDATION (No. 30), 1928;  
THE MINIMUM WAGE FIXING MACHINERY (AGRICULTURE)  
CONVENTION (No. 99) AND RECOMMENDATION (No. 89), 1951; AND  
THE MINIMUM WAGE FIXING CONVENTION (No. 131) AND  
RECOMMENDATION (No. 135), 1970

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



# INDEX TO COMMENTS MADE BY THE COMMITTEE, BY COUNTRY

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Afghanistan	I B, No. 13	Art. 22, Nos. 13, 95, 100, 139, 140, 141, 142 Subm.
Albania	General Report, para. 111 I A.	
Algeria	General Report, para. 120 I B, Nos. 13, 32, 42, 44, 63, 111, 122 III	Art. 22, Nos. 19, 56, 63, 94, 95, 97, 100, 111, 122, 138, 142
Angola	I B, Nos. 17, 18, 27, 105, 111	Art. 22, Nos. 12, 17, 29, 81, 88, 98, 100, 105, 107, 108, 111 Subm.
Antigua and Barbuda	General Report, paras. 111, 120, 145 I B, No. 87 III	Art. 22, general Art. 22, Nos. 17, 29, 98, 111, 138
Argentina	I B, Nos. 34, 81, 111	Art. 22, general Art. 22, Nos. 13, 53, 81, 105, 111, 115, 129, 139 Subm.
Australia	I B, Nos. 42, 81, 122	Art. 22, Nos. 81, 123, 142 Art. 35, Nos. 98, 122
Austria	I B, Nos. 29, 94, 98, 102, 103, 111	Art. 22, Nos. 10, 13, 81, 95, 98, 103, 111, 122, 135 Subm.
Bahamas	General Report, paras. 111, 120 I B, Nos. 42, 81, 144	Art. 22, general Art. 22, Nos. 14, 29, 94, 105, 117 Subm.

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

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

# REPORT OF THE COMMITTEE OF EXPERTS

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Bahrain	I B, Nos. 29, 81	Art. 22, Nos. 29, 81 Subm.
Bangladesh	General Report, para. 145 I B, Nos. 81, 105 III	Art. 22, general Art. 22 Nos. 32, 81, 96, 105, 106
Barbados	General Report, paras. 111, 120 I B, No. 100	Art. 22, general Art. 22 Nos. 29, 63, 81, 105, 115, 118
Belarus		Art. 22, general Art. 22, Nos. 29, 100, 115
Belgium	I B, Nos. 13, 105, 122	Art. 22, Nos. 29, 81, 95, 100, 111, 115, 138, 149, 154 Subm.
Belize	General Report, para. 145 III	Art. 22, general Art. 22, Nos. 5, 16, 29, 81, 105, 115
Benin	I B, No. 105	Art. 22, general Art. 22, Nos. 13, 29, 85, 87, 98, 100, 105, 111, 143 Subm.
Bolivia	I B, Nos. 5, 81, 95, 121, 122, 123, 129, 136 III	Art. 22, general Art. 22, Nos. 77, 78, 95, 96, 111, 117, 128, 130
Botswana		Subm.
Brazil	I B, Nos. 5, 29, 81, 94, 95, 105, 111, 142 III	Art. 22, Nos. 12, 53, 81, 88, 100, 105, 106, 111, 125, 148
Bulgaria	I B, No. 111	Art. 22, Nos. 62, 81, 100, 106, 111 Subm.
Burkina Faso	I B, Nos. 87, 111, 132	Art. 22, general Art. 22, Nos. 87, 95, 111, 132, 143, 150 Subm.
Burundi	I B, Nos. 29, 105	Art. 22, Nos. 19, 29, 81, 105
Cambodia	General Report, paras. 111, 150 I A. III	
Cameroon	I B, Nos. 29, 78, 81, 105	Art. 22, general Art. 22, Nos. 13, 29, 105 Subm.

# INDEX

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Canada	I B, Nos. 105, 111, 122	Art. 22, Nos. 32, 63, 105, 111 Subm.
Cape Verde	General Report, paras. 111, 120 I A and 8, No. 98 III	Art. 22, Nos. 19, 29, 81, 100, 105, 111 118
Central African Republic	General Report, paras. 111, 120 I 8, Nos. 19, 29, 41, 52, 62, 81, 87, 94, 105, 118 III	Art. 22, general Art. 22, Nos. 13, 29, 95, 98, 100, 105, 111, 117, 118
Chad	I 8, Nos. 29, 81, 105	Art. 22, general Subm.
Chile	I 8, Nos. 3, 24, 25, 35, 36, 37, 38, 63, 111, 122	Art. 22, Nos. 1, 2, 3, 13, 29, 32, 37, 63, 100 Subm.
China		Art. 22, Nos., 16, 27, 32, 59, 159 Subm.
Colombia	I B, Nos. 3, 9, 12, 17, 22, 24, 25, 29, 81, 87, 98, 106, 107, 129	Art. 22, Nos., 3, 5, 10, 24, 25, 81, 87, 88, 95, 100, 107, 129, 136 Subm.
Comoros		Art. 22, general Art. 22, Nos. 13, 19, 77, 78, 81, 95, 122
Congo	General Report, paras. 111, 120, 145 III	Art. 22, general Art. 22, Nos. 13, 29, 149, 150
Costa Rica	General Report, paras. 111, 120 I B, Nos. 102, 122, 130, 147, 148, III	Art. 22, general Art. 22, Nos. 29, 81, 100, 102, 105, 129, 130, 134, 135, 138, 144, 147, 150
Côte d'Ivoire	I 8, Nos. 29, 52, 136	Art. 22, general Art. 22, Nos. 29, 81, 96, 100, 129
Cuba	I B, Nos. 29, 63, 87, 105, 111, 122	Art. 22, Nos. 1, 13, 29, 81, 95, 100, 105, 111, 122, 138 Subm.
Cyprus	I 8, Nos. 87, 100, 105, 114	Art. 22, Nos. 100, 122, 123, 143, 151, 159 Subm.
Czechoslovakia	I 8, Nos. 29, 111, 123	Art. 22, Nos. 5, 10, 115, 122, 130, 161 Subm.

# REPORT OF THE COMMITTEE OF EXPERTS

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Denmark	I B, No. 147 II B, No. 8	Art. 22, Nos. 29, 53, 62, 100, 115, 119, 134, 139, 148, 152, 160 Art. 35, Nos. 5, 8, 122 Subm.
Djibouti	III	Art. 22, general Art. 22, Nos. 13, 17, 23, 55, 56, 71, 73, 81, 87, 100, 108, 115, 122
Dominica	General Report, paras. 111, 120 III	Art. 22, general Art. 22, Nos. 16, 29, 81, 87, 95, 100, 105, 111, 138 Subm.
Dominican Republic	I B, Nos. 10, 77, 81, 89, 95, 100, 105 III	Art. 22, No. 100
Ecuador	General Report, para. 117 I A and B, Nos. 87, 98, 103, 105, 122 III	Art. 22, Nos. 29, 77, 78, 81, 87, 88, 98, 100, 103, 107, 115, 118, 122, 136, 139, 144, 159
Egypt	I B, Nos. 55, 73, 81	Art. 22, Nos. 53, 81, 100, 115, 139, 142, 147, 159 Subm.
El Salvador	General Report, paras. 111, 120, 150 I B, No. 105 III	Art. 22, general Art. 22, Nos. 105, 107, 159, 160
Equatorial Guinea	I B, No. 103	Art. 22, general Art. 22, Nos. 30, 103, 138 Subm.
Ethiopia	I B, No. 87	Subm.
Fiji	III	Art. 22, general
Finland	I B, Nos. 96, 98, 100, 115, 130, 139, 142, 151	Art. 22, Nos. 13, 53, 81, 111, 115, 136, 138, 147
France	General Report, paras. 111, 120 I B, Nos. 35, 36, 37, 38, 42, 81, 118, 122, 134 II B, Nos. 19, 42, 100, 111, 120	Art. 22, Nos. 13, 14, 27, 35, 36, 37, 38, 53, 62, 81, 87, 96, 100, 106, 115, 125, 129, 136, 142, 152 Subm. Art. 35, general Art. 35, Nos. 5, 10, 13, 33, 44, 53, 62, 63, 69, 100, 115, 120, 122, 123, 125, 141, 142, 144, 145, 147, 149
Gabon	I B, Nos. 29, 87, 105 III	Art. 22, Nos. 29, 81, 100, 105, 123, 144, 154
XII		

# INDEX

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Germany	I A and B Nos. 29, 111, 122, 130	Art. 22, Nos. 3, 29, 81, 97, 130, 132, 138, 142, 147 Subm.
Ghana	General Report, para. 117 I A and B, Nos. 87, 89, 94, 111, 115, 119	Art. 22, general Art. 22, Nos. 59, 74, 81, 100, 103, 111, 149, 150
Greece	I B, Nos. 29, 77, 78, 98, 144	Art. 22, Nos. 13, 29, 69, 78, 115, 122, 124, 138, 147, 149, 156, 159 Subm.
Grenada	General Report, paras. 111, 150 III	Art. 22, general Art. 22, Nos. 5, 29, 81, 94, 95, 97, 105
Guatemala	General Report, paras. 111, 120 I B, No. 105	Art. 22, general Art. 22, Nos. 1, 62, 63, 81, 100, 122 Subm.
Guinea	I B, Nos. 81, 94, 111, 115, 118, 132, 139 III	Art. 22, general Art. 22, Nos. 13, 62, 81, 87, 95, 98, 111, 117, 118, 122, 136, 140, 142, 143, 149, 151
Guinea-Bissau	General Report, paras. 111, 120 I A and B, Nos. 18, 98 III	Art. 22, Nos. 19, 29, 74, 81, 88, 98, 100, 105, 111
Guyana	General Report, para. 120 I B, Nos. 42, 87 III	Art. 22, general Art. 22, Nos. 29, 81, 95, 97, 100, 115, 129, 136, 137, 139, 140, 142, 144, 149, 150, 151
Haiti	General Report, paras. 111, 120 I B, Nos. 42, 81 III	Art. 22, general Art. 22, Nos. 100, 111
Honduras	I B, Nos. 87, 122	Art. 22, Nos. 81, 100, 111, 122, 138 Subm.
Hungary		Art. 22, general Art. 22, Nos. 27, 29, 100, 135, 139, 140, 142 Subm.
Iceland	I B, Nos. 98, 100, 105, 111	Art. 22, Nos. 102, 111
India	General Report, para. 120 I B, Nos. 29, 88, 100, 141, 144 III	Art. 22, Nos. 29, 100, 115, 123

# REPORT OF THE COMMITTEE OF EXPERTS

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Indonesia		Art. 22, No. 100 Subm.
Iran, Islamic Republic of	I 8, No. 106 III	Art. 22, Nos. 95, 100, 106, 122
Iraq	I 8, Nos. 17, 19, 29, 81, 95, 105, 111, 118, 132	Art. 22, Nos. 13, 29, 77, 78, 100, 105, 108, 111, 115, 118, 119, 120, 122, 132, 135, 136, 138, 139, 142, 146, 147, 153 Subm.
Ireland	General Report, paras. 111, 120 I 8, Nos. 23, 105, 122	Art. 22, general, Art. 22, Nos. 29, 53, 63, 81, 87, 98, 100, 138 Subm.
Israel		Art. 22, Nos. 111, 122, 138, 150
Italy	I 8, Nos. 81, 111, 118, 122, 129, 147	Art. 22, Nos. 13, 69, 95, 97, 100, 106, 111, 115, 118, 136, 138, 139, 142, 145, 150 Subm.
Jamaica	General Report, para. 145 I 8, Nos. 29, 81, 98, 100, 105 III	Art. 22, Nos. 81, 100, 117, 122, 149
Japan	I 8, No. 100	Art. 22, Nos. 29, 100, 115, 122, 134, 142, 147
Jordan	General Report, paras. 111, 120 I 8, Nos. 81, 98	Art. 22, general Art. 22, Nos. 100, 105, 106, 111, 118, 122, 135 Subm.
Kenya	General Report, para. 145 I 8, Nos. 17, 29, 105, 143 III	Art. 22, Nos. 29, 63, 81, 105, 118, 129, 138, 142
Kuwait	I 8, Nos. 87, 106	Art. 22, general Art. 22, Nos. 81, 87, 89, 111, 117, 136 Subm.
Lao People's democratic Republic	General Report, paras. 111, 120 I A III	Art. 22, Nos. 13, 29
Lebanon	General Report, paras. 111, 120 I A III	Art. 22, Nos. 1, 15, 17, 19, 30, 52, 59, 77, 78, 81, 88, 89, 95, 98, 100, 106, 111, 115, 120, 122, 127, 131



# INDEX

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Lesotho	General Report, paras. 111, 120 III	Art. 22, general Art. 22, No. 29
Liberia	General Report, paras. 111, 120 I A and B, Nos. 22, 23, 29, 55, 58, 87, 92, 98, 105, 108, 112, 113, 114, 147	Art. 22, Nos. 29, 53, 58, 105, 111, 147 Subm.
Libyan Arab Jamahiriya	General Report, para. 150 I B, Nos. 29, 81, 95, 98, 102, 105, 118, 121, 128, 130 III	Art. 22, general Art. 22, Nos. 52, 53, 88, 95, 100, 102, 111, 118, 121, 122, 128, 130, 138
Luxembourg		Art. 22, Nos. 13, 29, 96, 102, 132, 138 Subm.
Madagascar	General Report, paras. 111, 120 I A and B, Nos. 29, 120, 127 III	Art. 22, Nos. 13, 81, 100, 111, 118, 124, 129, 132
Malawi	III	Art. 22, Nos. 98, 111, 144, 149
Malaysia	I B, Nos. 11, 12, 98	Art. 22, Nos. 14, 81, 88, 95, 123 Subm.
Mali	General Report, para. 120 III	Art. 22, general Art. 22, Nos. 13, 81, 100, 111
Malta	I B, Nos. 111	Art. 22, Nos. 1, 13, 43, 49, 81, 96, 100, 111, 119, 129, 131, 132, 135, 138, 141, 148, 159
Mauritius	I B, Nos. 8, 32, 105 III	Art. 22, general Art. 22, Nos. 19, 95
Mauritania	I A	Art. 22, general
Mexico	I B, No. 34	Art. 22, general Art. 22, Nos. 13, 53, 100, 115, 118, 142, 160, 161 Subm.
Mongolia	I B, No. 87 III	Art. 22, Nos. 98, 111, 122
Morocco	General Report, paras. 111, 120 I A and B, Nos. 2, 12, 26, 29, 52, 81, 98, 99, 100, 105, 122, 136	Art. 22, general Art. 22, Nos. 11, 29, 100, 105, 122, 129, 136, 147 Subm.

# REPORT OF THE COMMITTEE OF EXPERTS

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Mozambique	I B, No. 81	Art. 22, Nos. 81, 100, 105, 111 Subm.
Myanmar	General Report, paras. 111, 120 I B, Nos. 17, 29, 87	Art. 22, general Art. 22, Nos. 29, 63 Subm.
Nepal	I B, No. 100 III	
Netherlands	General Report, para. 117 I B, Nos. 29, 100, 122, 135 II A and B, Nos. 17, 81	Art. 22, Nos. 13, 27, 69, 74, 81, 100, 115, 129, 145, 147, 151, 156, 159 Art. 35, Nos. 11, 29, 33, 69, 74, 81, 87, 94, 95, 113, 114, 122, 126, 129, 131, 135, 137, 138, 144, 145, 146, 147 Subm.
New Zealand	I B, Nos. 42, 100, 105	Art. 22, Nos. 14, 44, 52 Art. 35, Nos. 100, 111
Nicaragua	I B, Nos. 3, 8, 87, 98, 139, 144	Art. 22, Nos. 9, 13, 17, 77, 78, 88, 95, 111, 115, 117, 136, 138, 140, 142
Niger		Art. 22, Nos. 13, 81, 87, 95, 100, 111, 138, 154, 156 Subm.
Nigeria	I B, Nos. 81, 87, 105, 134 III	Art. 22, general Art. 22, Nos. 19, 29, 59, 81, 100, 105, 123
Norway	I B, Nos. 87, 100, 122, 147	Art. 22, Nos. 8, 13, 53, 69, 96, 115, 118, 132, 138, 139, 145
Pakistan	General Report, paras. 111, 145 I B, Nos. 22, 29, 81, 87, 96, 98, 105 III	Art. 22, Nos. 27, 29, 59, 105
Panama	General Report, para. 145 I B, Nos. 3, 8, 22, 29, 52, 55, 56, 87, 94, 98, 107, 114 III	Art. 22, Nos. 29, 73, 74, 88, 94, 98, 105, 107, 111, 117, 122, 125
Papua New Guinea	General Report, paras. 111, 120, 145, 150 I A and B No. 98 III	Art. 22, Nos. 8, 29, 42, 105, 122

# INDEX

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Paraguay	General Report, paras. 145, 150 I 8, Nos. 29, 81, 87, 98, 105, 111, 122 III	Art. 22, Nos. 29, 77, 78, 100, 117, 122
Peru	I 8, Nos. 22, 24, 25, 29, 44, 56, 68, 69, 81, 87, 98, 105, 122, 139, 151 III	Art. 22, Nos. 24, 25, 29, 53, 55, 56, 62, 87, 100, 105, 106, 107, 111, 122, 156, 159
Philippines	I 8, Nos. 17, 100, 111	Art. 22, Nos. 17, 59, 100, 111, 122, 141 Subm.
Poland	I 8, Nos. 87, 98, 105, 111, 135, 151	Art. 22, Nos. 13, 29, 74, 87, 96, 98, 100, 111, 115, 122, 134, 142
Portugal	I 8, Nos. 19, 74, 122, 151	Art. 22, Nos. 63, 69, 77, 78, 81, 103, 111, 129, 145, 147 Subm.
Qatar	General Report, paras. 111, 120	Art. 22, general Art. 22, Nos. 81, 111 Subm.
Romania	I 8, Nos. 29, 87, 98, 111, 135	Art. 22, Nos. 13, 29, 81, 87, 98, 100, 122, 129, 135, 138 Subm.
Russian Federation		Art. 22, Nos. 29, 100, 115, 122, 142, 148, 159 Subm.
Rwanda	I 8, Nos. 12, 81, 94, 105, 123, 138	Art. 22, general Art. 22, Nos. 62, 81, 100, 105, 135 Subm.
Saint Lucia	General Report, paras. 145, 150 III	Art. 22, general Art. 22, Nos. 5, 19, 87, 94, 95, 97, 98, 100
San Marino	General Report, para. 111	Art. 22, general Art. 22, Nos. 88, 100, 148, 151, 156, 160, 161
Sao Tome and Principe	General Report, para. 111	Art. 22, general Art. 22, Nos. 81, 100, 111 Subm.
Saudi Arabia	I 8, No. 100	Art. 22, No. 81

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Paraguay	General Report, paras. 145, 150 I B, Nos. 29, 81, 87, 98, 105, 111, 122 III	Art. 22, Nos. 29, 77, 78, 100, 117, 122
Peru	I B, Nos. 22, 24, 25, 29, 44, 56, 68, 69, 81, 87, 98, 105, 122, 139, 151 III	Art. 22, Nos. 24, 25, 29, 53, 55, 56, 62, 87, 100, 105, 106, 107, 111, 122, 156, 159
Philippines	I B, Nos. 17, 100, 111	Art. 22, Nos. 17, 59, 100, 111, 122, 141 Subm.
Poland	I B, Nos. 87, 98, 105, 111, 135, 151	Art. 22, Nos. 13, 29, 74, 87, 96, 98, 100, 111, 115, 122, 134, 142
Portugal	I B, Nos. 19, 74, 122, 151	Art. 22, Nos. 63, 69, 77, 78, 81, 103, 111, 129, 145, 147 Subm.
Qatar	General Report, paras. 111, 120	Art. 22, general Art. 22, Nos. 81, 111 Subm.
Romania	I B, Nos. 29, 87, 98, 111, 135	Art. 22, Nos. 13, 29, 81, 87, 98, 100, 122, 129, 135, 138 Subm.
Russian Federation	I A	Art. 22, Nos. 29, 100, 115, 122, 142, 148, 159 Subm.
Rwanda	I B, Nos. 12, 81, 94, 105, 123, 138	Art. 22, general Art. 22, Nos. 62, 81, 100, 105, 135 Subm.
Saint Lucia	General Report, paras. 145, 150 III	Art. 22, general Art. 22, Nos. 5, 19, 87, 94, 95, 97, 98, 100
San Marino	General Report, para. 111	Art. 22, general Art. 22, Nos. 88, 100, 148, 151, 156, 160, 161
Sao Tome and Principe	General Report, para. 111	Art. 22, general Art. 22, Nos. 81, 100, 111 Subm.
Saudi Arabia	I B, No. 100	Art. 22, No. 81

# INDEX

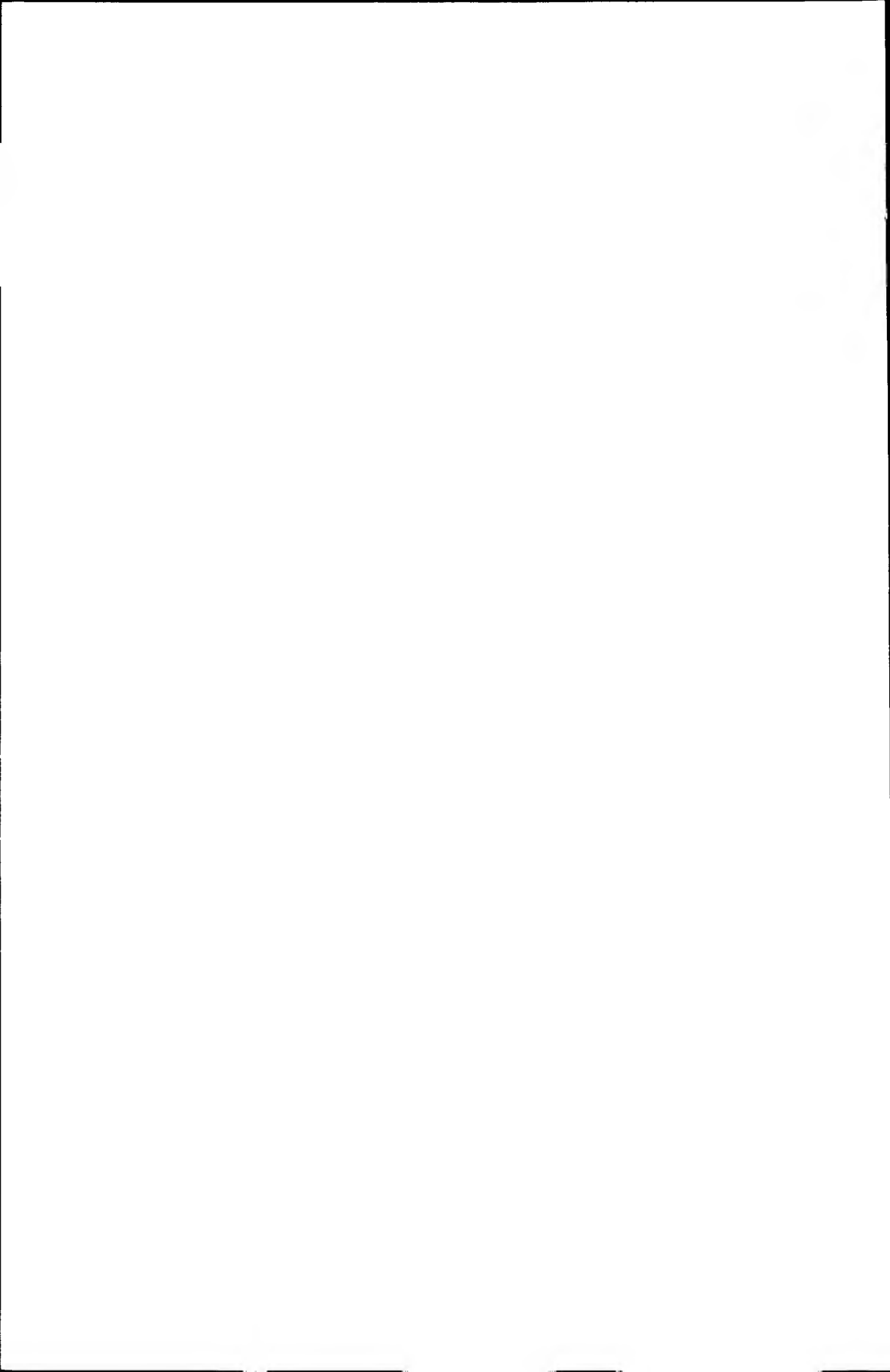
Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Syrian Arab Republic	I B, Nos. 19, 81, 87, 96, 98, 118, 129 III	Art. 22, general Art. 22, Nos. 63, 81, 100, 107, 111, 115, 117, 139
Tanzania, United Republic of	General Report, paras. 120, 150 I B, Nos. 17, 29, 98, 105 III	Art. 22, Nos. 29, 63, 81, 105, 134, 135, 142
Thailand	General Report, para. 111 I B, Nos. 29, 105 III	Art. 22, Nos. 29, 105, 122, 123
Togo	I B, No. 87	Art. 22, general Art. 22, Nos. 29, 87, 100, 138
Trinidad and Tobago	I B, Nos. 87, 98, 105, 125 III	Art. 22, Nos. 29, 85, 111
Tunisia	I B, Nos. 29, 55, 59, 73, 105, 113	Art. 22, general Art. 22, Nos. 29, 81, 100, 105, 118, 150
Turkey	I B, Nos. 98, 105	Art. 22, Nos. 81, 96, 100, 115, 118
Uganda	I B, Nos. 81, 105 III	Art. 22, Nos. 29, 122, 123
Ukraine		Art. 22, general Art. 22, Nos. 29, 100, 115
United Arab Emirates		Art. 22, No. 81
United Kingdom	I B, Nos. 87, 97, 98, 100, 122, 142, 147, 151, 160 II B, Nos. 17, 68, 147, 151	Art. 22, Nos. 69, 100, 115, 160 Art. 35, Nos. 5, 10, 14, 24, 25, 29, 56, 59, 63, 69, 81, 85, 94, 95, 100, 101, 105, 115, 122, 126, 147, 160 Subm.
United States		Art. 22, Nos. 53, 74, 147 Art. 35, Nos. 53, 74, 147
Uruguay	General Report, paras. 111, 120 I B, Nos. 122, 149	Art. 22, general Art. 22, Nos. 8, 13, 22, 81, 94, 105, 118, 122, 129, 136, 139, 148, 149, 155, 159, 161 Subm.

# REPORT OF THE COMMITTEE OF EXPERTS

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Venezuela	General Report, paras. 111, 120 I A and B, Nos. 3, 29, 122, 130, 139, 155 III	Art. 22, general Art. 22, Nos. 13, 27, 29, 117, 118, 121, 128, 130, 139, 142, 153, 155
Yemen	General Report, para. 150	Art. 22, general Art. 22, Nos. 59, 95, 100, 111, 132, 135 Subm.
Yugoslavia	General Report, paras. 111, 120 I B, Nos. 87, 98, 111	Art. 22, general Art. 22, Nos. 13, 27, 53, 74, 100, 122, 136, 138, 139, 142, 148, 156 Subm.
Zaire	General Report, paras. 111, 120, 145 I B, Nos. 29, 81, 102, III	Art. 22, general Art. 22, Nos. 29, 62, 81, 100, 118, 158
Zambia	I B, Nos. 105, 111, 123, 136	Art. 22, Nos. 105, 111, 138, 150 Subm.
Zimbabwe		Art. 22, Nos. 100, 144

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 62nd Session in Geneva from 12 to 25 March 1992. The Committee has the honour to present its report to the Governing Body.

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

Mr. Benjamin AARON (United States),

Professor Emeritus of Law and former Director of the Institute of Industrial Relations, University of California, Los Angeles; former President, National Academy of Arbitrators; former President, Industrial Relations Research Association; former member of the Arbitration Services Advisory Committee of the Federal Mediation and Conciliation Service; former 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; President 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);

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 Law Association; member of the International Council of Environmental Law; member of the Arab Court of Arbitration;

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; 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 the preparation of the Encyclopaedia of Social Legislation in India; Chairman of the National Committee for Social and Economic Welfare 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; President of El Jaller;

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;

Mr. Semion A. IVANOV (Russian Federation),  
Principal researcher at the Institute of State and Law of the Academy of Sciences of the Russian Federation; Doctor of Legal Science, Professor of Labour Law, Scientist Emeritus of the Russian Federation; Professor at the Academy of Labour and Social Relations (Moscow); Vice-President of the International Society of Labour Law and Social Security; President of the National 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;

## GENERAL REPORT

---

Bernd Baron von MAYDELL (Federal Republic of Germany),  
Professor of Civil Law, Labour Law and Social Security Law;  
Director of the Max Planck Institute for Foreign and  
International Social Law (Munich); Vice-President of the  
European Institute for Social Security (Leuven); Treasurer of  
the International Society of Labour Law and Social Security;

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),  
Independent lawyer for labour relations (Sao Paulo); Associate  
Professor of Labour Law at the Law School of the public  
University of Sao Paulo and the Law School of the private  
Pontifical Catholic University of Sao Paulo; member of the  
Federal Council for Education: Academic Adviser, San Martin de  
Porres University (Lima); winner of the medal for "Honra ao  
Merito de Trabalho" awarded by Decree of the President of the  
Republic for a major contribution to the development of labour  
law; winner of the medal for "Honra ao Merito Judiciario do  
Trabalho" awarded by the Higher Labour Tribunal for his important  
contribution to the administration of justice; Honorary  
President of the "Asociación Iberoamericana de Derecho del  
Trabajo y Seguridad Social", Buenos Aires, Argentina; Honorary  
President of the "Academia Nacional do Direito do Trabalho"  
(composed of Brazilian experts in labour law); member of the  
International Academy of Jurisprudence and Comparative Law (Rio  
de Janeiro) and the International Academy of Law and Economy (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; Fellow, Nigerian Institute of Advanced Legal  
Studies;

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 judge of the Administrative Tribunal of the ILO;  
former member of the International Council for Commercial

## REPORT OF THE COMMITTEE OF EXPERTS

Arbitration; former member of the International Court of Arbitration of the International Chamber of Commerce; Alternate Chairman of the Staff Committee of Appeals, African Development Bank; 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, (London) Dip. Arts, 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 Chairman, 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),

Judge of the Court of Justice of the Cartagena Accord; former President of the Supreme Court of Colombia; former Professor of International Labour Law at the National University of Colombia; former Professor of Labour Law, Universities Externado de Colombia and Pontificia Javeriana; former Professor of Philosophy of Law at the Bolivarian University of Medellín;

Mr. Jean Maurice VERDIER (France),

Professor of Labour Law at the University of Paris X; Honorary President of the University of Paris X; Honorary Dean of the Faculty of Law and Economics; Director of the Institute for Research on Undertakings and Industrial Relations of the University of Paris X (associate of the National Centre for Scientific Research); Director of the Institute of Labour Social Sciences, University of Paris I; Vice-President of Libre Justice, the French section of the International Commission of

## GENERAL REPORT

---

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 (Croatia),  
Professor of Public International Law at the University of Zagreb, Faculty of Law; associate member of the Institute of International 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;

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

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

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

5. The Committee, after an examination and evaluation of the above-mentioned reports and information, drew up its present report, consisting essentially of the following three parts: Part One is the General Report in which the Committee reviews general questions concerning international labour standards and related instruments and their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 103 to 133 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 103 to 133 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 134 to 144 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 Minimum

Wage-Fixing Machinery Convention (No. 26) and Recommendation (No. 30), 1928; the Minimum Wage Fixing Machinery (Agriculture) Convention (No. 99) and Recommendation (No. 89), 1951; and the Minimum Wage Fixing Convention (No. 131) and Recommendation (No. 135), 1970 (see paragraphs 145 to 150 below).

6. In carrying out its task, which consists of indicating the extent to which the situation in each State appears to be in conformity with the terms of the Conventions and the obligations undertaken by that State by virtue of the ILO Constitution, the Committee has followed the principles of independence, objectivity and impartiality set forth in its previous reports. It has continued to apply the working methods recalled in its 1987 report. One such method is the spirit of mutual respect, cooperation and responsibility which has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards, whose proceedings the Committee takes fully into consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but also in respect of specific matters concerning the way in which States fulfil their standard-setting obligations.

7. The Committee has examined the views expressed during the examination of the general part of its report by the Committee on the Application of Standards of the International Labour Conference, at its 78th Session (1991). It notes the suggestion concerning the possible implementation of the provisions of article 37, paragraph 2, of the Constitution. By virtue of this paragraph, the Governing Body may make and submit to the Conference for approval "rules providing for the appointment of a tribunal for the expeditious determination of any dispute or question relating to the interpretation of a Convention", such tribunal being bound by the judgements or advisory opinions of the International Court of Justice. The implementation of this provision of the Constitution should be submitted to the competent bodies of the ILO for a prior in-depth examination.

## II. GENERAL

### Membership of the Organisation

8. Since the Committee's last session the number of member States of the ILO has risen from 148 to 153. Albania was readmitted on 22 May 1991. Lithuania, Latvia and Estonia rejoined the Organisation on 4 October 1991, 3 December 1991 and 13 January 1992 respectively. The Republic of Korea joined the Organisation on 9 December 1991.

### New standards adopted by the Conference in 1991

9. The Committee notes that at its 78th Session (June 1991), the International Labour Conference adopted the Working Conditions (Hotels and Restaurants) Convention (No. 172) and Recommendation (No. 179), 1991.



10. The Social Security (Seafarers) Convention (Revised) (No. 165), 1987, will come into force on 2 July 1992.

#### Ratifications and denunciations

11. In 1991, 58 ratifications by 29 member States were registered. The total number of ratifications at 31 December 1991 was 5,562. Between the beginning of 1992 and 25 March 1992, ten ratifications by three member States have been registered.

12. The total number of denunciations not accompanied by the ratification of a revised Convention was 67 at 25 March 1992.

13. Since the Committee's last session, the Director-General has registered eight denunciations not accompanied by the ratification of Conventions. They concerned the Night Work (Women) Convention (Revised), 1948 (No. 89): (a) the Government of Cuba did not state the reasons for its decision; (b) the Government of Greece, in a letter of 21 February 1992 concerning the denunciation of Convention No. 89, indicated that the reason for this denunciation was its commitment to harmonising national legislation with that of the European Communities, and particularly Directive 76/207 concerning the principle of equal treatment of men and women in conditions of work. It also points out that the reasons justifying the prohibition of the night work of women at the time of the Convention's adoption have changed and that the conditions of night work have improved considerably. The Government adds that a growing number of authorisations for night work have been granted in both the public and private sectors, particularly in traditionally "female" occupations such as the textile industry. The Government states that the denunciation was preceded by the consultations provided for in the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); (c) the Government of Italy, in a communication dated 26 February 1992, indicated that it decided to denounce the Convention in order to make ILO standards consistent with those of the European Communities. The Government indicated that the decision was taken after consultation with the parties concerned; (d) the Government of Portugal indicated, in a communication dated 26 February 1992, that the provisions of the national legislation giving effect to Convention No. 89 are no longer relevant at present and could impair the principle of equality between the sexes. In addition, the Government refers to the need to harmonise the national legal order and European Community law as interpreted by the Court of Justice of the European Communities; (e) the Government of Belgium, in a communication dated 27 February 1992, denounced the Convention. It did not indicate the reasons for this decision; (f) in a communication dated 27 February 1992, the Government of Spain explained that the denunciation of this Convention was due to the fact that its provisions are not in keeping with article 14 of the Spanish Constitution of 1978 which sets forth, as a fundamental right, the prohibition of all types of discrimination based on sex, and with other provisions of Spanish law; (g) the Government of France, in a communication dated 27 February 1992, stated that it had denounced the Convention for exceptional reasons, which had to do with a serious risk of incompatibility in its

international commitments. Recalling a judgement of the Court of Justice of the European Communities (the Stoeckel case (No. 345/89 of 22 July 1991)) which noted incompatibilities between French legislation on night work and Directive 76-207 concerning equal conditions of work for men and women, the Government referred to a letter of the Commission of the Communities, dated 18 December 1991, urging it to bring its legislation into conformity with the Directive. The denunciation of the Convention was preceded by consultations with each representative trade union organisation and the National Advisory Committee for the ILO. The Government indicates that the procedure for the approval of the Night Work Convention, 1990 (No. 171), was due to begin; (h) the Government of Switzerland, by a memorandum dated 27 February 1992, indicated that the decision to denounce the Convention had been taken after the matter had been discussed by the Federal Labour Committee, which had been extended for the occasion to include representatives of the women's organisations concerned. The Government indicated that Switzerland's main economic competitors, particularly the member States of the European Economic Communities, are not bound by this Convention or are in the process of freeing themselves from their obligations and that Switzerland's competitiveness would be impaired if it were to forego denouncing the Convention. The Government recalls that night work constitutes an undeniable burden on the health and well-being of workers, whatever their sex, and that in this context, account should be taken of the principle of equality between men and women set forth in the Federal Constitution. Furthermore, the Government plans to reinforce protection for all persons working at night and to offset, as far as possible, the disadvantages connected with night work by a series of protective measures. The principles and objectives of the Night Work Convention, 1990 (No. 171), will be taken into consideration when the national legislation is revised following the denunciation of the Convention. The Government indicates that it will be able to examine in time whether the necessary conditions exist for the ratification of Convention No. 171.

14. The Committee expresses its concern at these denunciations. It expresses the hope that all governments concerned will examine the possibility of ratifying the Night Work Convention, 1990 (No. 171), to ensure the necessary protection for all persons working at night.

15. The Director-General registered the denunciations of the Convention concerning Statistics of Wages and Hours of work, 1938 (No. 63), by Germany; the Indigenous and Tribal Populations Convention, 1957 (No. 107) by Colombia; and the Safety Provisions (Building) Convention, 1937 (No. 62) by Guatemala. The denunciation of Spain of the Sickness Insurance (Sea) Convention, 1936 (No. 56), and the Social Security (Seafarers) Convention, 1946 (No. 70) will be registered when Convention No. 165 comes into force on 2 July 1992. These denunciations followed automatically from the ratification by these countries of revising Conventions.

16. The Director-General also registered, on 13 February 1992, the denunciation of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), by the Netherlands, which in 1952, in accordance with Article 2, paragraph 2, of the Convention, accepted the provisions of Part II of the Convention, which envisage the



progressive abolition of fee-charging employment agencies conducted with a view to profit and the regulation of other agencies. At the same time, the Director-General registered the ratification and the acceptance, in accordance with the above provision of the Convention, of Part III, which provides for the regulation of fee-charging employment agencies, including those conducted with a view to profit.

17. With reference to its comments on the application of Convention No. 96, in which it notes the increasing problems encountered by many countries in the observance of the obligations under Part II of the Convention due to the developments that have occurred in the management of labour markets, the Committee notes that the Netherlands nevertheless remains bound by the obligations of the Convention.

### Constitutional and other procedures

18. 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

19. The Committee takes note of the report of the Commission of Inquiry established to examine a complaint alleging non-compliance by Nicaragua of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), submitted under article 26 of the ILO Constitution by several Employers' delegates to the 73rd (1987) Session of the International Labour Conference. At its 250th (May-June 1991) Session the Governing Body noted the report of the Commission of Inquiry.

##### Complaint against Romania

20. The Committee takes note of the report of the Commission of Inquiry established to examine the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), by Romania, which was adopted on 28 March 1991. At its 250th (May-June 1991) Session, the Governing Body noted the report of the Commission of Inquiry. The Committee notes that the Government is recommended to inform the supervisory bodies of the results achieved as regards reparations for the discrimination suffered by members of national minorities or by persons persecuted for political reasons, and to supply detailed information on all developments in the annual reports on the application of Convention No. 111. The Committee also notes with interest that, in accordance with the request by the Governing Body, the conclusions and recommendations of the Commission of Inquiry

have been published in Romanian in order to permit their dissemination to the persons concerned.

Complaint against Sweden

21. By a letter dated 24 June 1991, addressed to the Director-General, the Employers' delegate of Sweden to the 78th (1991) Session of the International Labour Conference submitted a complaint against Sweden alleging that it had failed to apply satisfactorily 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 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). As invited, the Swedish Government submitted its observations on this complaint. At its 252nd (March 1992) Session, the Governing Body decided to postpone consideration of this matter to a later session.

B. Representations submitted under  
article 24 of the ILO Constitution

Representation concerning Turkey

22. The representation concerning Turkey, presented in June 1982 by the General Confederation of Norwegian Trade Unions under article 24 of the Constitution, regarding 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 several complaints submitted by a number of international trade union organisations (Cases Nos. 997, 999 and 1029). At its 252nd (March 1992) Session, the Governing Body approved the final conclusions of the Committee on Freedom of Association.

Representation concerning the  
Libyan Arab Jamahiriya

23. At its 251st (November 1991) Session, the Governing Body declared closed the procedure concerning the representation presented in 1985 by the Egyptian Trade Union Federation alleging 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). This procedure had been suspended in 1988 pending the results of negotiations between the interested parties. By a letter dated 22 September 1991, the Egyptian Trade Union Federation informed the Director-General that an agreement had been reached on settling the entitlements of the Egyptian workers expelled from the Libyan Arab Jamahiriya in 1987 and that the representation had been withdrawn.

Representation concerning Iraq

24. The Committee established to consider the representation made by the Egyptian Trade Union Federation in November 1990 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, 1962 (No. 118), adopted its report. The Governing Body approved this report at its 250th (May-June 1991) Session. It declared closed the procedure and invited the Government of Iraq to supply information to the ILO supervisory bodies on the measures that have been taken or are envisaged to give effect to the recommendations 'concerning the application of Conventions Nos. 95, 105 and 19 (in relation with Convention No. 118).

#### Representation concerning Yugoslavia

25. At its 250th (May-June 1991) Session, the Governing Body declared receivable the representation made in June 1991 by the International Confederation of Free Trade Unions (ICFTU) alleging non-observance by Yugoslavia of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and set up a tripartite committee.

#### Representation concerning Venezuela

26. At its 251st (November 1991) Session, the Governing Body declared receivable a representation made by the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS) and the International Organisation of Employers (IOE) alleging non-observance by the Government of Venezuela of the Night Work (Women) Convention, 1919 (No. 4), the Labour Inspection Convention, 1947 (No. 81), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Employment Service Convention, 1948 (No. 88), the Protection of Wages Convention, 1949 (No. 95), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Termination of Employment Convention, 1982 (No. 158). The Governing Body set up a tripartite committee to examine this representation and, in accordance with established practice, referred the aspects of the representation concerning the observance of Conventions Nos. 87 and 98 to the Committee on Freedom of Association.

#### Representation concerning Czechoslovakia

27. The Committee set up to examine the representations made by the Trade Union Association of Bohemia, Moravia and Slovakia on 23 October 1991 and by the Slovak Confederation of Trade Unions (CS-KOS) on 11 November 1991 alleging non-observance by the Czech and Slovak Federal Republic of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), adopted its report. This report was adopted by the Governing Body at its 252nd (March 1992) Session. The

Governing Body declared closed the procedure initiated as a result of the representations made by the above two workers' organisations and invited the Government to undertake appropriate consultation with the International Labour Office in carrying out the recommendations and to provide full information in the reports due by virtue of article 22 of the Constitution on the measures taken in accordance with the recommendations, in order to enable the present Committee to follow up the matters in question as of its March 1993 Session.

C. Special procedures concerning  
freedom of association

28. At each of its last three meetings (May 1991, November 1991 and February 1992), the Committee on Freedom of Association has had before it an average of 85 cases concerning more than 40 countries from all parts of the world, cases in which it presented interim or final conclusions, or cases of which the examination has been adjourned pending the arrival of information from the governments (278th to 282nd Reports). Some of these cases have been before the Committee on two occasions. Moreover, since March 1991, nearly 50 new cases have been submitted to the ILO.

29. The Committee of Experts has noted that the Governing Body Committee on Freedom of Association has recommended that the present 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 Chad (Case No. 1592), Costa Rica (Case No. 1483), the Dominican Republic (Case No. 1549), Honduras (Case No. 1568), Norway (Case No. 1576), Pakistan (Case No. 1534), Paraguay (Case No. 1546), the Philippines (Cases Nos. 1570 and 1585), Romania (Case No. 1571), and Turkey (Cases Nos. 997, 999, 1029, 1582 and 1583).

30. In accordance with the procedure for the examination of complaints against States which are members of the United Nations but not of the ILO, the complaint submitted in May 1988 by the Congress of South African Trade Unions against South Africa, alleging various violations of trade union rights in South Africa, was referred for examination to the Fact-Finding and Conciliation Commission on Freedom of Association. This Commission held its first meeting in Geneva from 21 to 23 October 1991 to take cognisance of the case and determine its procedure. Its second meeting was held from 7 to 22 February 1992 in South Africa, where the Commission heard the representatives of the parties and witnesses.

Functions in regard to other international  
and regional instruments

A. International Covenant on Economic,  
Social and Cultural Rights

31. In accordance with the procedure approved by the Governing Body at its 236th (May 1987) Session, by a communication dated 18 November 1991, the International Labour Office conveyed to the Secretary-General of the United Nations, for transmission to the

## GENERAL REPORT

---

Committee on Economic, Social and Cultural Rights, information concerning the situation in two States (Panama and the Syrian Arab Republic) whose reports were communicated to the Office by the United Nations. These reports 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.

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

32. In conformity with Article 22 of this Convention, the ILO was represented at the Eleventh Session (20-31 January 1992) 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

33. 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 all 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. The conclusions of the Committee regarding these reports will be sent to the Council of Europe. The Committee also noted that a representative of the ILO participated as technical adviser in the meeting of the Steering Committee for Social Security of the Council of Europe, held in Strasbourg in October 1991. As in previous years, the Steering Committee approved the conclusions of the present Committee.

### D. European Social Charter and Additional Protocol

34. 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 103rd to 105th Sessions of the Committee of Independent Experts set up to supervise the application of the Charter, held in Strasbourg, respectively, in April, May and July 1991. Furthermore, a representative of the International Labour Office participated in the meetings of the Committee for the European Social Charter which, inter alia, formulated a draft Protocol to amend the Charter intended to improve the effectiveness and operation of its supervisory procedure. The work of this Committee is intended to give a new stimulus to the Social Charter and will continue this year.



35. The International Labour Office was represented at the first Ministerial Conference on the European Social Charter and at the ceremony to mark the 30th anniversary of the signing of the Charter (Turin, 21 and 22 October 1991). The Committee was informed that on that occasion the Protocol to amend the Charter was adopted.

36. The Social Charter has been ratified by Finland (29 April 1991), Luxembourg (10 October 1991) and Portugal (30 September 1991); it has been signed by Hungary (13 December 1991), Liechtenstein (9 October 1991) and Poland (26 November 1991). The Additional Protocol was ratified on 29 April 1991 by Finland (Sweden ratified it on 5 May 1989; three ratifications are necessary for its entry into force). The Protocol to amend the Charter has been signed by the following countries: Belgium, Cyprus, France, Greece, Hungary, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden and United Kingdom.

37. The Committee welcomes the excellent collaboration between the International Labour Organisation and the Council of Europe in the activities relating to the Social Charter. It also notes with interest the adoption of conclusions XII.1 of the Committee of Independent Experts relating to the twelfth supervisory cycle of the European Social Charter (1988/1989).

#### Collaboration with other international organisations

##### Cooperation with the United Nations, its specialised agencies and other institutions as regards standards

38. 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.

39. Thus, in accordance with established practice, copies of the reports received on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), were forwarded for comments to the United Nations, the United Nations Food and Agriculture Organisation (FAO) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO). Copies of the reports on the Rural Workers' Organisations Convention, 1975 (No. 141), were forwarded to the FAO, the UNESCO and the United Nations. A copy of a report on the Nursing Personnel Convention, 1977 (No. 149), was forwarded to the World Health Organisation (WHO). A copy of a 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. Furthermore, copies of reports on the Radiation Protection Convention, 1960 (No. 115), were forwarded to the International Atomic Energy Agency. Copies of reports on the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and the Merchant Shipping

(Minimum Standards) Convention, 1976 (No. 147), were forwarded to the International Maritime Organization (IMO).

40. These organisations were invited to be represented at the sittings of the Committee of Experts at which the Conventions in question were discussed.

41. The Committee has already noted the adoption of the Convention on the Rights of the Child on 20 November 1989, which, as of 1 March 1992, has been ratified by 105 countries. Certain provisions of the Convention relate to fields which are already covered by international labour standards: freedom of association (Article 15), social security (Article 26) and protection against economic exploitation (Article 32). By virtue of Article 45 of the Convention on the Rights of the Child, the ILO was represented at the first meeting of the Committee on the Rights of the Child, held in Geneva from 30 September to 18 October 1991, in which the internal rules were adopted and cooperation with the specialised agencies was examined. This question is to be examined once again by the Committee on the Rights of the Child in order to consider, inter alia, questions relating to the exchange of information.

42. In the field of the rights of the child, the Committee notes that the immediate objective of the Interdepartmental Project on the Elimination of Child Labour, as set out in the Budget for 1992-93, is to facilitate and promote the ratification and wider observance of international labour standards on child labour, especially the Minimum Age Convention, 1973 (No. 138). Two areas have been singled out for priority action: preventing the employment of children in hazardous work or employment; and protecting the youngest and most vulnerable children. The Interdepartmental Project is intended to complement the standard-setting activities undertaken up to now through the collection and dissemination of information which can be used by ILO constituents to develop policies for the protection of children and the promotion of action at the national level. The Committee considers that this Interdepartmental Project can constitute a valuable contribution by the ILO in the fields within its competence in assisting States to apply the Convention on the Rights of the Child.

#### Matters relating to human rights

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

44. The Committee notes with interest the preparations under way for the World Conference on Human Rights, which has been called by the United Nations General Assembly for 1993. It has been informed that the ILO is taking an active part in the discussions leading up to the World Conference, and joins with the Governing Body's expression of support at its 252nd (March 1992) Session for the objectives of the World Conference and for the ILO's continued participation.

45. The Committee recalls that in its previous report it noted the creation of a joint working group composed of representatives of the ILO and of the United Nations Centre for Human Rights, with a view

to closer cooperation between the two organisations in human rights matters. The Committee is glad to note that this joint working group has met regularly in the intervening year, and that its discussions have led to increased exchanges of information and collaboration on several projects in this area. The Committee encourages the continuation of these efforts.

46. The Committee also notes that 1993 has been declared "International Year for the World's Indigenous People" by the United Nations General Assembly. Recognising the vital role the ILO has to play in promoting the rights of these peoples around the world, the Committee notes with interest the decision of the General Assembly to request the ILO to participate closely with the Under-Secretary-General for Human Rights in coordinating activities for the International Year.

47. The Committee notes that the General Assembly of the United Nations declared the period 1990-1999 as the International Decade of International Law. Recognising the important contribution to international law made by the ILO's work in setting and supervising the application of international labour standards, the Committee notes the activities undertaken in the first term (1990-92) during the Decade, and the ILO's collaboration with the United Nations in this respect. It urges the International Labour Office to pursue this collaboration in the future.

#### Questions concerning the application of Conventions

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

48. This year the Committee has continued its examination of the application of the Convention in the period 1988-90 in 53 countries - including seven non-metropolitan territories. The comments which follow cover the same period as that referred to in paragraphs 46 to 50 of last year's report. Given that the problems dealt with by the Convention are constantly evolving, the Committee has nevertheless endeavoured in both its individual and its general comments to take account of subsequent changes. It has thus had regard to data supplied by the Employment and Development Department of the ILO, which gave the Committee the same invaluable technical help as in previous years, in some cases by PREALC, or published by such international bodies as the OECD and the United Nations Economic Commissions for Latin America and Europe.

49. Examination of 12 Latin American and Caribbean countries' reports shows the uncertainty of the employment situation in the region. The position is overshadowed by the debt burden and the requirements of structural adjustment, weak growth and even recession in economic activity, which are in some countries leading to increased unemployment and particularly underemployment (Honduras, Panama, Peru). Other countries' reports refer to apparently more favourable developments, but lower declared unemployment levels should not be allowed to conceal persistent massive underemployment (Paraguay) or growth of the precarious informal sector at the cost of the organised



sector (Bolivia, Chile). In most of these countries, much of the active population is still in insecure employment where productivity and pay are low. Some governments deplore the persistence of informal employment (Chile); others have undertaken to amend legislation to promote greater flexibility in employment (Ecuador, Panama, Peru). The Committee notes that the employment objective has been written into the national development plans of some countries (Panama, Paraguay). Intervention funds have been added to the special employment programmes which have long been the only instrument of employment policy (Bolivia, Honduras, Panama). In more and more countries, greater attention is being given to the improvement of vocational training, especially for the young and for women (Bolivia, Chile, Honduras, Paraguay).

50. The Committee has also examined the application of the Convention in several developing countries in Africa. Those countries' reports generally contain very little statistical information, although some governments indicate they are trying to improve their labour market information systems (Uganda). Implementation of employment objectives laid down in development plans and programmes meets with manifold constraints imposed by the need for structural adjustment, population growth, migration and skills mismatch. It is because of unemployment among first-time jobseekers - whether they are qualified or unskilled (Algeria, Comoros, Uganda) - and the reforms resulting from labour being shed in the public sector (Guinea) that vocational training has taken on such importance in employment policies in these countries.

51. The Committee notes that despite similar difficulties, one of the few Asian countries it has considered (Philippines) has almost met the employment objectives it set itself; while in another, which is a case apart (Hong Kong), the situation is one of full employment.

52. The fact that the economic situation is unfavourable for employment in the OECD countries was noted last year by the Committee and is now confirmed. With one exception (Japan), the employment gains of two years' sustained growth have been lost, and unemployment levels have reached or surpassed those of 1988. There can be great regional disparity in unemployment (Belgium, Canada, Italy) and in most countries there is a large group of long-term unemployed. Notwithstanding this economic and social context, several governments continue to pursue as their immediate aims reducing inflation, controlling public spending and improving the supply side, at the cost of the aim of full employment. In addition, labour market policies stress "active" measures, especially training. Unemployment assistance has tended to be restrictively applied. Countries hitherto little affected have had to adapt quickly available means to deal with, for them, an abnormally high level of unemployment (Austria, Norway, Sweden). Yet the Committee notes that measures of labour market policy alone do not seem to achieve any lasting reduction in unemployment. Even active measures should not, moreover, be misused, for their function is to contribute effectively to long-term entry into employment, as one government (France) emphasised. They need to be reinforced by, rather than take the place of, an overall policy that is conducive to the promotion of productive employment.

53. The Committee has continued to follow carefully the application of the Convention in countries undergoing a transition to the market economy. It notes with interest that several countries readily supplied information on recent developments, thus showing the importance they attach to international labour standards in a period of difficult adjustment (Czechoslovakia, Mongolia, Poland). All these countries are experiencing - in different degrees, depending on their circumstances and the speed and the nature of the reforms engaged - steep growth in unemployment resulting from the disruption of former stability in conditions where, according to one government (Czechoslovakia), full employment was only ensured by damaging productivity and living standards, and where, says another (Romania), huge underemployment was concealed. Establishing an efficient labour market appears, then, essential to the reforms. It is important for countries to recall that, although restructuring is likely to create increased unemployment, the principles of the Convention should not be forgotten or allowed to lapse. It appears that this is understood. The Committee has noted with interest the adoption of employment legislation which conforms to the spirit and sometimes the letter (Czechoslovakia) of the Convention. Reports show the efforts made and the difficulties encountered in finding resources for setting up employment services and for training and retraining workers on a large scale while at the same time trying to guarantee some degree of social protection for workers without jobs.

54. The Committee's considerations this year bring to light the increasing internationalisation of employment problems. In varying ways and degrees, every country that has reported has had to face restructuring, involving adjustment and labour force adaptation. Developing countries and those undergoing transition to the market economy are acutely affected by the question of equitable distribution of the costs and benefits of adjustment; but so too it would appear are industrialised market economy countries where it is recognised that long-term unemployment and various insecure kinds of employment easily lead to more and more of the active population being marginalised. As indicated in Part IX of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), international cooperation to promote employment needs to be increased in the context of the changes which the interdependent world economy is undergoing. The ILO's technical cooperation continues to give useful assistance in pursuing the aims of the Convention. The Committee also notes the attention given in most countries to education and training as essential ingredients in employment policy. In its 1991 General Survey, it has stressed the many close and necessary links between the Convention and the 1975 instruments concerning vocational guidance and vocational training in the development of human resources. It has also in individual comments repeatedly noted the relation to other standards, such as those on employment services and placement agencies, in the context of recent developments in the organisation and operation of labour markets. Since such a large number of reports refer to persistent difficulties in this respect, the Committee would in conclusion re-emphasise the importance of giving full effect to Article 3 of the Convention, regarding the consultation of interested persons. Wide-ranging social

dialogue embracing representatives of workers in the informal and rural sectors and covering all aspects of economic policy affecting employment is a precondition to the implementation of effective employment policy. Such dialogue is imperative when, as the Conference Committee underlined in 1991, the social dimension is indispensable to successful structural adjustment; and this implies that ILO standards on employment, basic rights and tripartism must lie at the heart of restructuring programmes.

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

55. This year the Committee has examined the application of these Conventions in many countries. It recalls that labour inspection is a key element in workers' protection and that it should consequently be given all due priority by bodies of all kinds which have to design global policies and programmes in this area. In the comments it has made, the Committee has borne in mind in particular the essential requirement in both Conventions that workplaces should be inspected as often and as thoroughly as necessary to ensure the effective application of the relevant legal provisions. The Committee has, in several cases, identified various elements in the Conventions which have a direct bearing on the ability to meet this requirement, such as the need to ensure that officials who are labour inspectors have all the necessary powers and do not have extraneous duties which prejudice their ability to discharge their primary inspection function; the need for sufficient staff and material resources (especially means of transport) to be allocated to the labour inspectorate; the need for effective cooperation between units in different government departments responsible for different aspects of labour inspection in terms of the Conventions; and the need to collate statistics of inspection activities and publish annual inspection reports, as well as to communicate such reports to the ILO. Publishing and communicating reports in this way enables both an informed assessment of the practical aspects of labour inspection at the national and international levels and a determination of what improvements are called for.

56. The Committee naturally appreciates that for many developing countries in particular there are often financial constraints on the labour inspection services, which make it hard for the officials concerned to meet the requirements of the Conventions. The Committee strongly believes that governments should give greater weight in public spending decisions to the obligations created by ratification of the Conventions and the need to ensure that duly enacted legal provisions in the labour sphere are complied with. Similarly, the Committee would stress the contribution which labour inspection can make to overall economic development and the husbanding of valuable resources, by helping to diminish illegality and consequent inefficiency in the workplace and thus both directly and indirectly promoting greater productivity.

57. The Committee would suggest two courses open to governments which despite financial strictures wish to make progress in

implementing the labour inspection instruments. One is to apply to the full the Convention's provisions as to collaboration between the labour inspectors and employers and workers and their organisations: this, it seems to the Committee, will show ways not only to target limited inspection resources and facilitate inspection visits that take place in a correct and helpful manner but also to determine rational priorities for the government's policy for further development of the inspection system. The second, parallel, course is in suitable cases to enlist the ILO's technical cooperation with more specific objectives: in addition to the general aim of strengthening labour inspectorates through training and enhanced administration, governments might, in the Committee's view, place greater emphasis on improving implementation of the basic requirements of Conventions Nos. 81 and 129 by referring to its observations and direct requests addressed to them. Finally, the Committee notes that the obligations of Convention No. 81 have (with 107 ratifications) been very widely accepted; but it would at the same time encourage all States which have not yet ratified the Convention to reconsider doing so in the light of the above paragraphs. It also hopes that States - especially those in which the agricultural sector occupies a large part of the population - will do the same in respect of Convention No. 129.

Application of the Equal Remuneration  
Convention, 1951 (No. 100)

58. In its 1990 General Observation and General Report, the Committee pointed to a number of factors which are central to an effective application of the Convention and suggested that, in taking measures, governments might wish to seek advice and technical cooperation from the International Labour Office. In its review of governments' reports, the Committee has noted that a number of governments have followed this course of action and requested assistance to further their implementation of the provisions of the Convention. The Committee has also noted with interest that, shortly after ratifying the Convention, one country sought and received from the Office assistance to overcome the difficulties impeding effective implementation of its obligations. This was the first time in the 40 years since the adoption of the Convention that the Office had received a formal request for general assistance in applying it. In view of the requirements of this fundamental Convention, which necessitates a wide range of practical measures in order to be fully applied, the Committee hopes that the Office will do its utmost to respond to the other requests for technical assistance as soon as possible.

Application of Conventions on the minimum age  
for admission to employment (Nos. 5, 59 and 138)

59. When examining the reports submitted under article 22 of the ILO Constitution, the Committee has noted certain difficulties in the application of the Minimum Age Convention, 1973 (No. 138), to which it refers in greater detail in the observations and direct requests which it is addressing to the States concerned. The first difficulty arises

out of the absence of general provisions to prohibit employment or work of any other type by children, particularly in respect of agriculture and work carried on by the persons concerned on their own account. It has had the opportunity to examine the labour legislation that has been adopted recently in several countries and notes that the provisions of the labour codes concerned, which apply by definition only to employees, or even only to employees in the private sector, are not sufficient to cover such situations. The Committee wishes to draw the attention of governments to the importance that attaches to the existence of legislation that establishes an unequivocal minimum age for admission to all types of employment and occupation, subject to the provisions of the Conventions which admit individual or collective exceptions in respect of certain forms of light work, within the framework of a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. In this connection, the Committee recalls the link established by the Conventions between the age of compulsory education and the minimum age for admission to employment or work. The Committee invites governments to re-examine this question when undertaking the changes to laws and regulations which may be necessitated due to the ratification of the Convention on the Rights of the Child in order to bring their legislation into conformity with Convention No. 138 on this point.

60. Another difficulty arises out of the existence of laws which authorise exceptions to the minimum age for admission to employment or work for persons who are apprentices in enterprises. These laws are not in conformity with the Minimum Age (Industry) Convention, 1919 (No. 5), or the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), which only admit exceptions from the established minimum age in respect of work done by children in technical schools. The Committee recalls that apprenticeship is explicitly provided for in Article 6 of the Minimum Age Convention, 1973 (No. 138), under which the Convention does not apply to work done by persons of at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, and is an integral part of a programme of training mainly or entirely in an undertaking. In the light of the above, the Committee invites the countries which have ratified Conventions Nos. 5 and 59 to examine once again the possibility of ratifying Convention No. 138.

61. Finally, the Committee trusts that the reports requested on the Conventions on the minimum age of admission to employment will include in future general information on the manner in which the Conventions are applied, including, for example, statistical data on the employment of children and young persons, information on the school attendance rates of children and the compulsory school-leaving age, when such an age has been established, extracts from the reports of inspection services and information on the number and nature of contraventions reported and the sanctions imposed.



Matters relating to "international"  
shipping registers and flag transfers

62. Last year, the Committee referred in paragraphs 56 and 57 of its report to certain queries which had arisen in relation to the application of certain Conventions in countries which have opened "international" shipping registers. Ships on such registers are subject to special rules as to taxation, and problems may arise through foreign seafarers sometimes covered by different collective agreements being employed on them. The Committee notes the discussion of this subject in the Conference Committee at the 78th Session (1991) of the International Labour Conference and at the 26th Session (October 1991) of the Joint Maritime Commission (JMC). The JMC adopted a resolution concerning structural changes in the shipping industry, which referred in particular to this question: the resolution calls for, inter alia, study of the effects both of "international" registers and of external ship management on seafarers' working and living conditions.

63. The Committee notes that these registers are of particular concern to the ILO because of their potential impact on the application of international labour standards. It hopes that the study envisaged will deal not only with "international" registers but also with other aspects of flag transfer where labour standards problems may arise, and that it will throw light on how relevant international labour Conventions are applied or taken into consideration in respect of the ships concerned. In the meantime, the Committee has in its present report addressed observations to the Governments of Denmark and Norway, as to the application of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), in this regard, and to the Government of France (Southern and Antarctic Territories) as to the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Application of Conventions to  
offshore industrial installations

64. The Committee notes a communication from the Trades Union Congress of the United Kingdom (TUC), dated 22 January 1992, in which the TUC welcomes the decision of the British Government in March 1991 to transfer responsibility for offshore health and safety from the Department of Energy to the Health and Safety Executive. The TUC had been pressing for this separation of responsibilities for more than ten years. The decision brought practice in the United Kingdom into line with that in the Norwegian sector of the North Sea, where an independent safety inspectorate reports to the Ministry of Labour. The TUC also welcomes the decision of the Government to allocate three times as much resources to the inspection of safety on offshore industrial installations. The TUC hopes to see a significant reduction in the health and safety hazards in this, one of the most dangerous sectors of British industry.

65. Referring to the comments that the Committee has been making since 1981 on the question of the application of international labour Conventions to offshore industrial installations, the TUC states that

it shares the hope of the Committee of Experts that it will soon be able to carry out an examination of the principal issues raised in this field on the basis of a comparative study of law and practice in some of the countries concerned.

### Application of Conventions in export processing zones or enterprises

66. The Committee notes the discussion in the Conference Committee on the application of standards (June 1991) concerning the application of Conventions in export processing zones or enterprises. It recalls that since 1981 it has regularly examined the question of the incidence on the application of ratified international labour Conventions of the establishment of export processing zones or enterprises. At first, it requested governments to supply information on this matter in their reports under article 22 of the Constitution; it has since been pursuing its examination, where appropriate, within the framework of the regular supervision of the application of ratified Conventions in the observations and direct requests addressed to the countries concerned. Once again, this year, comments have concerned mainly the application of the freedom of association Conventions (Nos. 87 and 98), the protection of maternity (Convention No. 3) and equal remuneration (Convention No. 100).

67. The Committee hopes that countries which are preparing or have adopted special legislation for export processing zones will not fail to consult the competent departments of the ILO in order to ensure that these texts are in conformity with the provisions of the Conventions that they have ratified. It also invites employers' and workers' organisations to make appropriate comments in this respect.

## III. DIRECT CONTACTS AND COOPERATION IN THE FIELD OF STANDARDS

### A. Direct contacts and cooperation in the field of standards

68. Direct contacts missions concerning freedom of association took place in Costa Rica (April 1991) and in Colombia (September 1991). The direct contacts mission which visited the Dominican Republic in January 1991 to examine the situation of Haitian workers on sugar plantations was followed by a mediation mission in August 1991 to the Dominican Republic and Haiti at the request of the Government of Haiti and with the agreement of the Government of the Dominican Republic.

69. The regional advisers on standards, whose task is to assist governments in finding solutions to standards-related problems, visited the following countries: Africa: Angola, Botswana, Ghana, Lesotho, Malawi, Namibia, Swaziland, Zambia and Zimbabwe; Americas: Argentina, Belize, Brazil, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Paraguay, Saint Lucia, Trinidad and Tobago, Uruguay and Venezuela;

Asia and the Pacific: China, Indonesia, Korea, Nepal, Pakistan, Philippines and Sri Lanka.

70. The programme of courses 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 was continued.

71. During 1991, 13 participants and one observer from the following 14 countries received training with the International Labour Standards Department: Angola, Benin, Cuba, Czechoslovakia, Egypt, Japan, Malaysia, Mexico, Peru, Philippines, Romania, Sudan, Tunisia and Zimbabwe.

72. Since April 1991, several regional and subregional seminars have been organised on international labour standards; the Sixth Latin American Regional Seminar on National and International Labour Standards (San José, Costa Rica); a Subregional Seminar on Freedom of Association (Brisbane, Australia); an Asian and Pacific workshop on standards-related subjects (Kuala Lumpur, Malaysia); and a Tripartite Subregional Seminar for the Promotion of Equality of Opportunity and Treatment in Employment for Central and Eastern European Countries (Prague, Czechoslovakia).

73. Cooperation activities and the promotion of standards also took place through participation in seminars (and particularly tripartite seminars), meetings, symposia and through the provision of advisory services on international labour standards in the following countries: Argentina, Australia, Austria, Belgium, Botswana, Cameroon, Canada, Central African Republic, China, Colombia, Costa Rica, Côte d'Ivoire, Czechoslovakia, Denmark (Greenland), Egypt, Fiji, Finland, France, Germany, Greece, Guatemala, Guinea, Honduras, Ireland, Italy, Jamaica, Japan, Latvia, Lesotho, Lithuania, Luxembourg, Mexico, Namibia, Nepal, Paraguay, Philippines, Poland, Romania, Saint Lucia, Switzerland, United Kingdom, United Republic of Tanzania, United States, Thailand, Trinidad and Tobago, Uruguay and Zimbabwe.

74. The Eleventh Asian Regional Conference, which took place in Bangkok from 26 November to 2 December 1991, addressed questions concerning international labour standards on the basis of the Director-General's Report.

## B. Standards and technical cooperation

75. The Committee was informed of the Governing Body's discussion at its 252nd (February-March 1992) Session on the subject of the relations between international labour standards and technical cooperation, and of the views expressed concerning the logic and coherence that must characterise the relation between international labour standards and the technical cooperation undertaken by the ILO.

76. Technical cooperation can be used more systematically and broadly to assist member States who so wish to improve the application of Conventions, to give effect to the comments of the ILO supervisory bodies and to promote tripartism. The major orientations of technical cooperation programmes are generally covered by a number of the standards adopted by the International Labour Conference.



77. Apart from human rights Conventions, the ILO's technical cooperation activities have constantly to be guided by many important Conventions, including: the Employment Policy Convention, 1964 (No. 122), the Human Resources Development Convention, 1975 (No. 142), the Rural Workers' Organisations Convention, 1975 (No. 141), the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the Labour Administration Convention, 1978 (No. 150), the Occupational Safety and Health Convention, 1981 (No. 155), the Minimum Age Convention, 1973 (No. 138), the Social Security (Minimum Standards) Convention, 1952 (No. 102), and many others, as well as various Recommendations, including: the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152) and the Cooperatives (Developing Countries) Recommendation, 1966 (No. 127).

78. For many years, the Committee has been pointing out the link between standards and technical cooperation in certain specific cases, such as in its comments concerning reports on ratified Conventions, in the general part of its annual report and in the general surveys carried out under article 19 of the Constitution of the ILO. The Committee has been informed that the attention of ILO departments, both at headquarters and in the field, has been drawn specifically to certain comments that the present Committee, or the Conference Committee on the Application of Standards have made in this respect. The Committee wishes to emphasise the value that it attaches to the information reported to it concerning the manner in which these comments are followed up. The Committee will continue to draw the attention of governments to the value of having recourse to ILO technical cooperation in cases in which it considers that the application of a ratified Convention is coming up against difficulties that could be overcome with the help of such cooperation.

79. The Committee appeals to the international institutions which contribute to the financing of technical cooperation activities to give priority to requests that are made in this context. The Committee considers that such requests are especially important when they come from countries facing the social consequences of structural readjustment measures or armed conflict, external debt problems or problems related to the elimination of child labour through, for example, measures to combat poverty.

80. At the practical level, the Committee notes with satisfaction the various measures that have been taken in this context. Since its last session, several seminars and workshops have been organised concerning the relations between international labour standards and technical cooperation. Three such workshops, intended mainly for ILO officials and experts, were held in Geneva with the participation of representatives of multi-bilateral donors. Furthermore, similar workshops gathering together representatives of donor countries and organisations as well as of governments, employers and workers, members of Parliament and academics were held in Harare (Zimbabwe), San José (Costa Rica), Manila (Philippines), Monterey (Mexico), Montevideo (Uruguay), Asunción (Paraguay), Buenos Aires (Argentina), Islamabad and Lahore (Pakistan), New Delhi (India) and Dacca (Bangladesh).

81. The Committee wishes to place particular emphasis on the support provided in this task by the ILO Training Centre in Turin. The Centre's Statute provides in Article I, inter alia, that the object of the Centre is to "provide training activities at the service of economic and social development in accordance with, and through, the promotion of international labour standards". The Trainer's Guide on "International Labour Standards and Development" was tried out at the Turin Centre and has now been published. The Committee hopes that the importance given to international labour standards will be maintained and developed, for example, through the inclusion in future of specialised courses on international labour standards in the Centre's programmes.

IV. ACTION CONCERNING THE ELIMINATION OF DISCRIMINATION:  
SPECIAL REPORTS ON THE DISCRIMINATION (EMPLOYMENT AND  
OCCUPATION) CONVENTION, 1958 (No. 111),  
FROM COUNTRIES THAT HAVE NOT RATIFIED IT

82. To strengthen the procedures for supervising the constitutional obligation of non-discrimination, the ILO Governing Body decided at its 208th (November 1978) and 209th (February-March 1979) Sessions, that governments of countries which had not ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), should be asked to submit reports under article 19 of the ILO Constitution every four years. At the time of its decision, the Governing Body specified that these reports should be in addition to those normally required under article 19 on other instruments and that governments should only be asked to reply to a limited number of questions, essentially concerning the difficulties of ratification, measures envisaged to overcome them and the prospects of ratification in the near future.

83. To date, such reports on Convention No. 111 have been requested in 1979 and 1983. In 1980 and 1984, the Committee included a section in its General Report, summarising and commenting on the information received and evaluating ratification prospects. In 1987, detailed reports were requested under article 19 on the Convention and its accompanying Recommendation, and they were used, along with the reports submitted under articles 22 and 35 of the Constitution by States that have ratified Convention No. 111, as a basis for the Committee's General Survey of 1988 concerning equality in employment and occupation. This is therefore the third time that the Committee has been called upon to examine reports under the special procedure established by the Governing Body.

84. In 1991, 40 member States which had not yet ratified the Convention were again asked to supply special reports under article 19 (see list in Appendix I). Since the report requests were sent out, five States have joined or rejoined the Organisation: Albania, Estonia, Latvia, Lithuania and Korea. They have not been asked to submit special reports under article 19. Latvia has already ratified the Convention.

## GENERAL REPORT

---

85. As at 1 March 1992, Convention No. 111 had been ratified by 110 member States; since the 1988 General Survey, three ratifications have been registered (Cameroon, Latvia, Uruguay).

86. The Committee notes that, of the 40 member States asked to supply reports, the following 18 have done so: Bahamas, Belize, Botswana, Burundi, China, Equatorial Guinea, Fiji, Ireland, Japan, Kenya, Mauritius, Suriname, United Republic of Tanzania, Uganda, United Arab Emirates, United Kingdom, United States, Zimbabwe. The following 11 non-metropolitan territories have also sent reports: Anguilla, Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Hong Kong, Isle of Man, Jersey, Montserrat, St. Helena.

87. The Committee notes with regret that at the time of its present examination, information has not been received from the following 22 countries: Bahrain, Cambodia, Comoros, Congo, Djibouti, El Salvador, Grenada, Indonesia, Lao People's Democratic Republic, Lesotho, Luxembourg, Malaysia, Myanmar, Namibia, Nigeria, Papua New Guinea, Seychelles, Singapore, Solomon Islands, Sri Lanka, Thailand, Zaire. It hopes that these countries will supply the necessary information at an early date so that the Conference and the Governing Body can carry out their work.

88. Of the 18 countries whose reports have been examined by the Committee, five have stated that they are envisaging ratification of the Convention at a more or less early date. The Governments of Belize and Burundi state that they envisage ratification of the Convention. The Government of Botswana states that ratification is being examined and could take place before the end of 1992. The Government of Equatorial Guinea states that it is ready to ratify the Convention in the near future, but gives no further details. The Government of the United Republic of Tanzania states, as it did in its report of 1984, that there are no legal or practical obstacles to ratification, which is now envisaged.

89. Four countries state that they are examining the question of ratification. The Government of the United States indicates that it is examining the prospect of ratification and that a tripartite federal advisory committee chaired by the Secretary of Labor has endorsed a comprehensive legal review of the Convention to determine whether there are any legal obstacles to its ratification. It points out that the examination and the necessary consultations will take time. The Government of the United Arab Emirates states that it is unable to set a specific date for the ratification of the Convention, but that the instrument will be included in the Conventions which are to be the subject of forthcoming studies in the area of international labour standards. The Government of Uganda indicates that it has set up a Constitutional Commission and a Law Reform Commission to examine the national legislation and that, following their work, the advisability of ratification will be considered. The Government of Zimbabwe states, as it did in the previous report, that it needs more time to fully assess the effects of the national legislation before making any amendments to bring it into conformity with the Convention and deciding to ratify it.

90. Two countries state that ratification is not envisaged. The Government of Bahamas indicates that it has taken steps to give effect

to the aims and objectives of the Convention but that the question of ratification does not arise. The Government of Mauritius does not envisage ratification as employers are free to hire and dismiss provided that they observe the legislation in force. For this reason and because placement services are free, it considers that there is no need to pursue a national policy of equality in respect of employment under the direct control of a national authority.

91. Seven countries have referred to difficulties standing in the way of ratification. The Government of China considers that although there are no discrepancies between the national legislation and the Convention, there are as yet no specific laws prohibiting discrimination in employment and occupation, and that the legislation in force does not contain sufficiently specific provisions to implement the Convention so that, in practice, cases of discrimination, particularly against women, have occurred on occasion; it considers that it would therefore be premature to ratify the Convention at this stage, but states that it is ready to make efforts to eliminate discrimination in employment to accelerate the possibility of ratification. The Government of Fiji indicates that ratification is not envisaged for the time being and considers that the main obstacle to ratification is the public sector job quota reserved for indigenous populations in the Constitution. The Government of Ireland states that the legislation on equality in employment only prohibits discrimination on grounds of sex and marital status, and that ratification is therefore not possible; it refers to the many government initiatives to promote equality of opportunity and treatment for women and to proposed amendments to the legislation to make it more effective in this area, but states that it is unable to provide details. The Government of Japan provides no information on ratification; it refers to its previous reports in which it stated that measures to counter discrimination based on social origin were still being pursued though other problems remained to be settled, such as the promotion of equality of opportunity for women. The Government of Kenya states that, although it wishes to ratify this important Convention, the provisions of the law concerning, firstly, the obligation for women workers who have taken two months' maternity leave to forfeit their right to annual leave during the same year, and, secondly, the denial to married women civil servants of the entitlement to a housing allowance unless they work and live away from their husbands, prevent ratification of the Convention. It indicates, however, that the amendment of these provisions is being examined. The Government of Suriname refers to difficulties connected with the absence of legal provisions on minimum wages and a system of job classification which would reduce inequalities in remuneration between men and women (such a system exists only in the public service and the larger enterprises); it refers to large disparities in wages and a high unemployment rate as well as a severe lack of statistical data on employment and wages in the rural and informal sectors. It states that it has not yet conducted a systematic inquiry into the application of the Convention.

92. The Government of the United Kingdom refers to specific difficulties that still stand in the way of ratification. It states that one of the major difficulties is that British nationals born

outside the national territory or the dominions can be excluded from certain jobs, which constitutes discrimination on the ground of national extraction. It states, however, that there are no plans at present to adopt measures to give full effect to the provisions of the Convention. It indicates that the Trades Union Congress (TUC) submitted a proposal on 1 November 1990 that the Convention should be ratified and that it replied that the question of ratification continued to be reviewed. The non-metropolitan territories of the United Kingdom (Anguilla, Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Hong Kong, Isle of Man, Jersey, Montserrat, Saint Helena) state, in general, that they cannot ratify the Convention as long as the United Kingdom has not done so. The territories of Anguilla, Falkland Islands (Malvinas), Hong Kong and Saint Helena consider that effect is given to the Convention in their territories or that it could be given with a view towards ratification. The territory of Jersey states that a Special Committee was set up on 29 January 1991 to examine the situation regarding equality between men and women and to make recommendations to the authority. Certain territories (Bermuda, British Virgin Islands, Gibraltar, Montserrat) refer to restrictions on the immigration or employment of foreigners, but these questions are not covered by the Convention.

93. The Committee recalls that the wording of the Convention is sufficiently flexible to meet requirements which vary greatly from one country to another. It aims to eliminate discrimination in employment and occupation, on grounds of race, colour, sex, religion, political opinion, social origin and national extraction. The Convention requires countries that have ratified it to declare and pursue a national policy to eliminate discrimination by methods appropriate to national conditions and practice, to repeal any statutory provisions and modify any administrative instructions which are inconsistent with the policy and to adopt positive measures which contribute to promoting equality of opportunity and treatment generally.

94. As regards certain difficulties mentioned above, the Committee points out that the Convention does not cover distinctions which are made on the basis of citizenship between the citizens of the country concerned and persons with a different citizenship. It covers distinctions made between citizens based on their place of birth or their foreign extraction or origin. The Committee recalls, moreover, that under Article 5, paragraph 2 of the Convention "any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination". Such special measures may include provisions adopted for ethnic groups which have been subjected to discrimination in the past. In this connection, the Committee refers to paragraphs 146, 147 and 156 of its General Survey of 1988 on equality in employment and occupation.

95. The Committee hopes that the countries which envisage or are considering the possibility of ratification will be able to ratify the

Convention in the near future and that countries still encountering certain difficulties will overcome them rapidly or re-examine them in the light of the above considerations, in cases where there are no real obstacles to ratification.

96. Since implementation of the procedure for the submission of four-yearly special reports by States that have not ratified the Convention, 14 ratifications have been registered. When the Governing Body initiated the procedure, it also invited the Director-General to take measures to encourage ratification of Convention No. 111, particularly through direct contacts. Such contacts can help governments in their examination of the question of ratification and can assist them in taking measures to overcome difficulties encountered. They have proved to be useful in the past. The Committee calls on member States whose national law or practice create obstacles to ratification to make use of this assistance. The Committee also recalls that in 1973 the Governing Body instituted a procedure for "special studies" on situations relating to the elimination of discrimination in employment, with a view to assessing the facts and seeking solutions in certain situations of discrimination based on the criteria set forth in Convention No. 111. Such studies can be conducted at the request of governments or employers' or workers' organisations. The Committee points out that the scope of this procedure is general and is not limited to countries that have ratified the Convention.

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

97. At each session, the Committee draws the attention of governments to the role that employers' and workers' organisations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require consultation with employers' and workers' organisations, or their collaboration in a variety of measures. The Committee has once again noted with satisfaction that almost all governments have indicated in the reports supplied under article 22 of the Constitution the representative organisations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the ILO.<sup>1</sup> Almost all governments have also indicated the organisations to which they have communicated copies of the information supplied to the ILO on the submission to the competent authorities of the instruments adopted by the Conference<sup>2</sup> and the reports due under article 19 of the Constitution.

98. 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

<sup>1</sup> A direct request has been addressed to Saint Lucia.

<sup>2</sup> Direct requests have been addressed to the following countries: Equatorial Guinea and Nigeria.



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 made by employers' and workers' organisations

99. Since its last session, the Committee has received 201 observations, 48 of which were communicated by employers' organisations and 153 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.

100. The majority of observations received (188) relate to the application of ratified Conventions.<sup>1</sup> Thirteen observations relate

---

<sup>1</sup> Argentina: Indigenous Association of the Argentine Republic on Convention No. 107; Austria: Austrian Congress of Chambers of Labour on Conventions Nos. 94, 95 and 122; Bangladesh: Bangladesh Employers' Association on Conventions Nos. 11, 16, 19, 27, 29, 32, 59, 81, 87, 96, 98, 105, 106 and 144; Brazil: "Gaucha" Association of Labour Inspectors on Conventions Nos. 29, 81, 105, 106 and 142; Chile: Chilean Association of "Ex Onerados" on Convention No. 111; Workers' Union No. 7 of the "El Teniente" division of Codelco Chile on Conventions Nos. 1, 2, 17, 18 and 111; Cyprus: Pancyprian Public Employees Trade Union on Convention No. 151; Dominica: Dominica Civil Service Association on Convention No. 111; Finland: Finnish Ships' Officers Association on Convention No. 53; Confederation of Salaried Employees (TVK) on Conventions Nos. 81 and 142; Central Organisation of Finnish Trade Unions (SAK) on Conventions Nos. 81, 96 and 142; Finnish Seamen's Union on Convention No. 134; France: National Union of Labour Directors in the Ministry of Agriculture on Convention No. 129; France (Southern and Antarctic Territories): National Federation of Maritime Trade Unions on Convention No. 111; French Democratic Confederation of Labour - Union of the Department of Paris on Convention No. 118; Gabon: Trade Union Confederation of Gabon on Conventions Nos. 29, 87 and 105; Germany: German Confederation of Trade Unions (DGB) on Conventions Nos. 3 and 122; Greece: Panhellenic Seamen's Federation on Convention No. 147; Hungary: Hungarian Union of Agricultural and Forestry Workers on Convention No. 140; Iceland: Icelandic Federation of Labour on Convention No. 102; India: Centre of Indian Trade Unions on Convention No. 100; Italy: Trade Union Association of Public Petrochemical Undertakings (ASAP) on Conventions Nos. 53, 138 and 142; General Confederation of Agriculture on Conventions Nos. 111 and 144; General Confederation of Commerce and Tourism on Conventions Nos. 19 and 96; General Confederation of Industry on Conventions

(footnote continued on next page)

(footnote continued from previous page)

Nos. 144 and 151; Italian General Confederation of Craftworkers on Convention No. 19; Italian General Confederation of Labour, Italian Confederation of Workers' Unions, Italian Union of Labour on Convention No. 151; Italian Confederation of Private Shipowners on Convention No. 134; Italian Confederation of Small and Medium-Sized Enterprises on Convention No. 19; National Federation of Fishing Enterprises on Convention No. 134; Autonomous Banking Union FABI on Conventions Nos. 81 and 98; Mexico: Mexican Confederation of Chambers of Industry on Convention No. 56; Morocco: Democratic Confederation of Labour on Convention No. 81; Mozambique: OTM - Trade Union Central on Convention No. 81; Netherlands: Confederation of Netherlands Trade Union Movement (FNV) on Conventions Nos. 29, 62, 74, 81, 100, 105, 135, 142 and 145; Federation of Netherlands Industry on Convention No. 145; Netherlands (Aruba): Aruba Workers' Federation on Conventions Nos. 8, 9, 11, 12, 14, 17, 22, 23, 25, 29, 45, 81, 87 and 88; New Zealand: New Zealand Council of Trade Unions on Conventions Nos. 14, 47 and 100; New Zealand Employers' Federation on Convention No. 100; Norway: Confederation of Norwegian Business and Industry on Conventions Nos. 111, 130 and 132; Norwegian Shipping and Offshore Federation on Conventions Nos. 8, 22 and 71; Norwegian Oil Workers' Federation on Convention No. 87; Pakistan: All Union Pakistan Trade Union Council on Convention No. 87; Pakistan National Federation of Trade Unions on Convention No. 29; Fishing Vessels Employees' Union on Conventions Nos. 16, 19, 22 and 32; Panama: National Council of Organised Workers on Conventions Nos. 3, 87 and 98; Peru: Seafarers Trade Union "Petrolera Transoceanica SA" on Convention No. 68; Fishermen's Trade Unions of "Chimbote y Anexos, de Coishco, de Samanco, de Casma, de Huarmey" on Convention No. 122; Poland: Independent Self-Governing Trade Union (Solidarnosc) on Conventions Nos. 87 and 98; Romania: National Cartel Alfa Confederation on Conventions Nos. 87 and 98; Spain: Baix Ebre (Tarragona) Local Police Trade Union Association of Workers' Commissions on Convention No. 155; General Union of Workers (UGT) on Conventions Nos. 77, 78, 81, 96, 100, 135, 140, 144 and 158; Trade Union Federation of Workers' Commissions on Conventions Nos. 29, 62, 81, 136 and 158; Sri Lanka: Ceylon Workers' Congress on Conventions Nos. 29, 63, 81, 98 and 135; Lanka Jathika Estate Workers' Union on Conventions Nos. 5, 11, 95 and 98; Sweden: Swedish Confederation of Professional Employees on Conventions Nos. 87, 98, 111, 151 and 154; Swedish Trade Union Confederation (LO) on Conventions Nos. 100 and 111; Turkey: Confederation of Turkish Trade Unions (TURK-IS) on Convention No. 118; Turkish Confederation of Employers' Associations (TISK) on Conventions Nos. 96, 100, 105 and 118; Turkish Railway Workers' Trade Union on Convention No. 98; Ukraine: Local Committee of Kharkov City Trade Union Organisation of Engineering Workers on Convention No. 29; United Kingdom: Career Teachers' Organisation on Convention No. 98; Trades Union Congress (TUC) on Conventions Nos. 87, 97, 98, 100, 122, 142, 151 and 160; United Kingdom (Guernsey): representative organisations of employers and workers on Convention

(footnote continued on next page)



to the reports provided by governments under article 19 of the Constitution relating to the Minimum Wage Fixing Machinery Convention (No. 26) and Recommendation (No. 30), 1928, the Minimum Wage Fixing Machinery (Agriculture) Convention (No. 99) and Recommendation (No. 89), 1951, and the Minimum Wage Fixing Convention (No. 131) and Recommendation (No. 135), 1970.<sup>1</sup>

101. The Committee notes that, of the observations received this year, 92 were transmitted directly to the ILO, which, in accordance with established practice, referred them to the governments concerned for comment. In 109 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.

(footnote continued from previous page)

No. 81; Uruguay: Inter-Union Assembly of Workers - National Convention of Workers (PIT-CNT) on Convention No. 81; Association of Nurses of Uruguay on Convention No. 149; Uruguay Chamber of Industry, Uruguay Chamber of Commerce and Chamber of National Production on Convention No. 32; Venezuela: Workers' Single Central of Venezuela on Conventions Nos. 121, 139 and 155; Venezuelan Federation of Chambers and Associations of Commerce and Production on Conventions Nos. 87 and 98; Yugoslavia: Independent Trade Union of Employees in the Administration of Justice in Bosnia-Herzegovina on Convention No. 111. In addition, comments have been received from the International Federation of Plantation, Agricultural and Allied Workers on the application in Brazil of Conventions Nos. 29 and 105; from the Latin American Central of Workers on the application in Cuba of Convention No. 111; from the World Federation of Teachers' Unions on the application in Germany of Convention No. 111; from the Federation of Egyptian Trade Unions on the application in Iraq of Convention No. 95; from the World Confederation of Labour on the application in Romania of Conventions Nos. 87 and 98; from the Independent Self-Governing Trade Union (Solidarnosc) - Malopolski Regional Direction (Poland) on the application in the Russian Federation and Ukraine of Convention No. 29; from the Local Committee of the Kharkov City Trade Union Organisation of Engineering Workers (Ukraine) on the application in the Russian Federation of Convention No. 29; and from the Public Services International (PSI) on the application in Turkey of Conventions Nos. 87, 98 and 151.

<sup>1</sup> Austria: Austrian Congress of Chambers of Labour; Bangladesh: Bangladesh Employers' Association; Gabon: Employers' Confederation of Gabon; India: Bharatiya Mazdoor Sangh, National Labour Organisation; Portugal: Portuguese Confederation of Industry, Portuguese Confederation of Agricultural Workers; Spain: General Workers' Union (UGT), Trade Union Confederation of Workers' Commissions; Sri Lanka: Lanka Jathika Estate Workers' Union; Sweden: Swedish Employers' Confederation, Swedish Trade Union Confederation (LO), Swedish Association of Local Authorities, Federation of Swedish County Councils.

102. 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 has 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 present meeting, to allow sufficient time for the governments concerned to make comments and for the Committee to consider the matters involved.

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

104. The Committee finally notes that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) has now received 51 ratifications. The Committee hopes that, in accordance with the favourable ratification prospects noted in the General Survey on the Convention in 1982,<sup>1</sup> many 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.

## VI. REPORTS ON RATIFIED CONVENTIONS (articles 22 and 35 of the Constitution)

### Supply of reports

105. 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.

106. 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 1991, were due to be examined this year in respect of 42 Conventions.<sup>2</sup> In addition, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria for more frequent reporting approved by the Governing Body and set out in paragraph 38 of the Committee's 1977 Report.

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

<sup>2</sup> Conventions Nos. 5, 10, 13, 16, 19, 27, 28, 29, 32, 33, 34, 48, 53, 59, 60, 62, 63, 69, 73, 74, 81, 85, 96, 98, 100, 105, 113, 118, 123, 125, 129, 134, 136, 138, 139, 142, 147, 151, 152, 154, 157, 160.

## GENERAL REPORT

---

### Reports requested and received

107. A total of 2,019 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, 1,413 of these reports had been received by the Office. This figure corresponds to 69.9 per cent of the reports requested, compared with 71.9 per cent last year. The Committee regrets that, as indicated in paragraph 118 below, a number of reports received are incomplete and do not enable it to reach conclusions regarding the application of the Conventions concerned. A table showing reports received and reports overdue, classified by country and by Convention, is to be found in Part Two (section I, Appendix I). Another table (section I, Appendix II) shows, for each year in which the Committee has met since 1933, the number and percentage of reports which were received by the prescribed date, by the date of the meeting of the Committee and by the date of the session of the International Labour Conference.

108. In addition, 398 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, 309 reports, or 77.6 per cent, had been received by the end of the Committee's session, in comparison with 80.5 per cent in 1991. A list of the reports received and those which are overdue, classified by territory and by Convention, may be found appended to section II of Part Two of this Report.

109. 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: Belgium, Belize, Bulgaria, Burundi, Canada, Chile, Cyprus, Ireland, Malaysia, New Zealand, Panama, Poland, Rwanda, Saudi Arabia, Singapore, South Africa, Suriname, Switzerland, Turkey, United Kingdom, United States.

110. 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

111. 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, 40 governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following countries: Antigua and Barbuda, Bahamas, Barbados, Central African Republic, Congo, Costa Rica, Dominica, El Salvador, France (Southern and Antarctic Territories), Grenada, Guatemala, Haiti, Ireland, Jordan, Lesotho, Morocco, Myanmar, Pakistan, Qatar, San Marino, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Thailand, Uruguay,

Venezuela, Yugoslavia, Zaire. No reports have been received for the past two or more years from the following countries: Albania, Cambodia, Cape Verde, Guinea-Bissau, Lao People's Republic, Lebanon, Liberia, Madagascar, Papua New Guinea, Seychelles, Sierra Leone.

112. 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 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

113. 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.

114. 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 1991 the proportion of reports received was only 13.3 per cent. The Committee is very concerned at this percentage, which is still 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 held over from 1991.

115. 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.

116. 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 with concern that this practice

## GENERAL REPORT

---

disturbs the regular functioning of the supervisory system and contributes to making it more burdensome.

### Supply of first reports

117. A total of 54 first reports of the 93 due on the application of ratified Conventions were received by the time that the Committee's session opened. 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. 121, 140 and 142 and, since 1989: Netherlands: Aruba (Convention No. 141) and, since 1990: Ecuador (Convention No. 153). The Committee recalls that particular importance attaches to the first reports on the basis of which it 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

118. 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 33 governments to which such letters were sent, only nine have provided the information requested.

119. 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.

120. This represents a total of 328 cases,<sup>1</sup> in comparison with 299 last year and 220 the previous year. The Committee is most 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.

---

<sup>1</sup> Algeria (Conventions Nos. 29, 63, 100, 105, 138, 142); Antigua and Barbuda (Conventions Nos. 17, 29, 87, 98, 111, 138); Bahamas (Conventions Nos. 29, 42, 81, 94, 105, 117, 144); Barbados (Conventions Nos. 29, 63, 81, 100, 105, 118); Cape Verde (Conventions Nos. 19, 29, 81, 100, 105, 111, 118); Central African Republic (Conventions Nos. 19, 29, 41, 81, 95, 100, 105, 111, 117); Congo (Conventions Nos. 29, 149); Costa Rica (Conventions Nos. 29, 81, 100, (footnote continued on next page)

121. The failure of the governments concerned to fulfil their obligations considerably 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

122. 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

(footnote continued from previous page)

105, 129, 134, 135, 138, 147, 148, 150); Dominica (Conventions Nos. 16, 29, 81, 87, 100, 105, 138); El Salvador (Conventions Nos. 105, 107, 159); France (Conventions Nos. 27, 29, 35, 37, 53, 62, 81, 96, 105, 118, 125, 134, 136, 152), Guadeloupe, French Guiana, Martinique and Réunion (Conventions Nos. 53, 62, 100, 142, 147), St. Pierre and Miquelon (Conventions Nos. 19, 53, 63, 100, 142, 147, 149); Guatemala (Conventions No. 1, 10, 62, 63, 81, 96, 100, 105); Guinea-Bissau (Conventions Nos. 19, 29, 74, 81, 88, 98, 100, 105, 111); Guyana (Conventions Nos. 81, 100, 115, 129, 136, 139, 140, 142, 144, 149, 151); Haiti (Conventions Nos. 29, 81, 105, 111); India (Conventions Nos. 29, 100, 141); Ireland (Conventions Nos. 23, 29, 53, 63, 105); Jordan (Conventions Nos. 100, 105, 106, 118, 135, 142); Lao People's Democratic Republic (Conventions Nos. 13, 29); Lebanon (Conventions Nos. 1, 15, 17, 19, 30, 52, 59, 77, 78, 81, 88, 89, 90, 95, 98, 100, 106, 111, 115, 120, 122, 127, 131); Lesotho (Convention No. 29); Liberia (Conventions Nos. 22, 23, 29, 53, 55, 58, 87, 92, 98, 105, 108, 111, 112, 113, 114, 147); Madagascar (Conventions No. 29, 81, 100, 111, 118, 120, 124, 127, 129, 132); Mali (Conventions Nos. 29, 100, 111); Morocco (Conventions Nos. 2, 4, 11, 12, 26, 29, 52, 81, 98, 99, 100, 105, 122, 129, 136, 147); Myanmar (Conventions Nos. 17, 29, 63, 87); Papua New Guinea (Conventions Nos. 8, 29, 42, 98, 105, 122); Qatar (Convention No. 81); Senegal (Conventions Nos. 13, 19, 29, 81, 100, 122, 125); Seychelles (Conventions Nos. 5, 8, 16, 87, 99, 105); Sierra Leone (Conventions Nos. 8, 17, 29, 59, 81, 88, 95, 98, 100, 101, 105, 111, 119, 125, 126, 144); Somalia (Conventions Nos. 29, 105, 111); Sri Lanka (Conventions Nos. 29, 63, 81, 135); United Republic of Tanzania (Conventions Nos. 29, 105, 134); Uruguay (Conventions Nos. 22, 81, 105, 129, 139); Venezuela (Conventions No. 3, 27, 29, 81, 88, 100, 117, 118, 122, 139, 141, 143, 144, 153); Yugoslavia (Conventions Nos. 13, 27, 74, 87, 100, 111, 122, 136, 138, 139, 140, 142, 148, 156, 159); Zaire (Conventions Nos. 29, 62, 81, 100, 102, 118, 158).



## GENERAL REPORT

---

their examination. These conclusions are then presented to the Committee in plenary sitting by the author for discussion and approval.

### Observations and direct requests

123. In the majority of cases, the Committee has found that no comment is called for regarding the way in which a ratified Convention has been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations", which are reproduced in the Report of the Committee, or of "direct requests", which are not published in the report, but are communicated directly to the governments concerned.

124. 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 1992.

125. 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

126. 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 50 instances in which measures of this kind have been taken in 30 States and 4 non-metropolitan territories. The full list is as follows:

<u>States</u>	<u>Conventions Nos.</u>
Angola	105
Australia	42
Bahrain	81
Belgium	13
Bulgaria	111
Burkina Faso	111
Cape Verde	98

# REPORT OF THE COMMITTEE OF EXPERTS

<u>States</u>	<u>Conventions Nos.</u>
Colombia	3, 87, 107
Costa Rica	130
Cyprus	87
Czechoslovakia	29, 123
Ecuador	103
Equatorial Guinea	103
Germany	130
Greece	77, 78, 124
Guinea	111, 132
Iceland	105
Islamic Republic of Iran	106
Malta	111
Mauritius	8
Mozambique	81
Nicaragua	87
Nigeria	87
Panama	107
Peru	69, 87, 105
Philippines	111
Poland	87, 98, 105, 111, 135, 151
Rwanda	81
Tunisia	73
Zambia	105, 111

## Non-metropolitan territories

### Denmark

Faeroe Islands	8
----------------	---

### France

New Caledonia	19
French Polynesia	42, 100, 120

### United Kingdom

Isle of Man	68
-------------	----

127. Thus, the total number of cases in which the Committee has been led to express its satisfaction with the progress achieved following its comments has risen to 1,948 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 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.

128. 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 has again 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

129. 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, compilation of judicial or administrative decisions, reports on direct contacts, reports of technical cooperation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

130. The Committee notes with regret that this year only some 50 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. Although this figure is slightly higher than that of 1991, it is significantly lower than that of 1990, which was 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.

131. The following countries have provided information on practical application in more than half the reports concerned: Afghanistan, Angola, Australia, Austria, Bahrain, Belgium, Brazil, Burundi, Canada, Chile, Colombia, Denmark, Dominican Republic, Finland, France, Gabon, Germany, Greece, Iceland, Ireland, Israel, Jamaica, Japan, Kenya, Netherlands, Norway, Panama, Philippines, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom, Uruguay, Venezuela, Yugoslavia.

132. 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.

133. 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 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.

134. 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 31 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.

135. For many years, the Committee has been noting that provisions concerning sanctions to secure observance of measures taken under the provisions of Conventions to ensure their application are often inadequate because the sanctions laid down do not have a sufficiently dissuasive effect, particularly where violations of basic human rights are concerned. It once again draws attention to the importance of establishing effective sanctions and of adopting 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. One government (Czechoslovakia) has provided information on measures adopted to increase the rate of fines imposed for violations of the provisions of the labour legislation, particularly in the area of safety and health, to take account of inflation. 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 or to determine the amount of such penalties in such a way as to take account of currency fluctuations.

VII. SUBMISSION OF CONVENTIONS AND RECOMMENDATIONS  
TO THE COMPETENT AUTHORITIES

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

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

(a) information on the steps taken to submit to the competent authorities within the time-limit of 12 or 18 months, as provided for in the Constitution, the following instruments adopted at the 77th Session of the Conference (1990): the Chemicals Convention (No. 170) and Recommendation (No. 177), and the Night Work Convention (No. 171) and Recommendation (No. 178);

---

<sup>1</sup> ILO: Summary of information on the submission to the competent authorities of Conventions and Recommendations adopted by the International Labour Conference, Report III (Part 3), International Labour Conference, 79th Session, Geneva (1992).

## GENERAL REPORT

---

- (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 76th (1989) Sessions (Conventions Nos. 87 to 169 and Recommendations Nos. 83 to 176);
- (c) replies to the observations and direct requests made by the Committee in 1991.

### 77th Session

137. The Committee notes with interest that the governments of the following member States have indicated that they have submitted to the authorities considered by them to be competent the instruments adopted by the Conference at its 77th Session: Australia, Barbados, Belarus, Brazil, Burundi, Comoros, Côte d'Ivoire, Cuba, Denmark, Dominica, Dominican Republic, Egypt, Finland, France, Ghana, Iceland, Indonesia, Islamic Republic of Iran, Israel, Japan, Malta, Mauritania, Myanmar, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Poland, Romania, San Marino, Saudi Arabia, Singapore, Spain, Switzerland, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

### 31st to 76th Sessions

138. 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: Dominican Republic (63rd to 77th Sessions), Grenada (69th to 75th Sessions), Malawi (20 Conventions adopted from the 55th to 75th Sessions), Swaziland (70th and 74th to 76th Sessions, and certain instruments adopted at the 77th Session).

139. 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 77th Sessions of the Conference.

### General aspects

140. 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.

141. The Committee wishes to stress that the submission to the competent authorities of the instruments adopted by the Conference is a fundamental obligation which constitutes the indispensable first

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

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

142. 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 one of these observations, for example, the Committee has expressed its satisfaction at the measures taken in the Dominican Republic for the submission of instruments to the competent authorities. 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.

143. 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.

144. 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

145. The Committee notes with regret that no information has been supplied by the following 15 countries showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions (70th to 77th)<sup>1</sup> have in fact been submitted to the competent authorities: Antigua and Barbuda, Bangladesh, Belize, Congo, Jamaica, Kenya, Pakistan, Panama, Papua New Guinea, Paraguay,

---

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

Saint Lucia, Seychelles, Sierra Leone, Suriname, Zaire. The increase in relation to the past three 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 141 above. 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

146. During the past year, several Member States of the EEC (Denmark, France, Netherlands, Portugal, United Kingdom) stated that they have submitted the Chemicals Convention (No. 170) and Recommendation (No. 177), 1990, to the appropriate authorities of the European Communities, in accordance with the procedure of which the Committee learned a few years ago in connection with the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and the Asbestos Convention, 1986 (No. 162), and their accompanying Recommendations. All these governments except one have also submitted the instruments in question to their national Parliaments or have undertaken to do so. In their reports, they specified that the consultations provided for in article 23, paragraph 2, of the ILO Constitution and by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) will be pursued at the national level. The Committee discussed the question of the submission of certain ILO instruments to the authorities of the European Communities at length in its General Report of 1990.

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

147. In accordance with the decisions taken by the Governing Body, governments were requested to supply reports under article 19, paragraphs 5 and 7, of the ILO Constitution on the Minimum Wage-Fixing Machinery Convention (No. 26) and Recommendation (No. 30), 1928; the Minimum Wage Fixing Machinery (Agriculture) Convention (No. 99) and Recommendation (No. 89), 1951; the Minimum Wage Fixing Convention

(No. 131) and Recommendation (No. 135), 1970, and a report concerning the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

148. As regards the reports examined for the General Survey on Conventions Nos. 26, 99 and 131, and Recommendations Nos. 30, 89 and 135, a total of 710 reports were requested and 463 received.<sup>1</sup> This represents 65.2 per cent of the reports requested.

149. As regards Convention No. 111, dealt with in the special General Survey, of a total of 40 reports requested 18 have been received.<sup>2</sup> This represents 45 per cent of the reports requested.

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

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

#### General Survey

152. Part III of this report (issued separately as Report III (Part 4B)) contains the General Survey of the Committee on questions covered by Conventions Nos. 26, 99 and 131 and Recommendations Nos. 30, 89 and 135. 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.

\* \* \*

153. The Committee has learned that Mr. Thiecouta Sidibé, Director of the International Labour Standards and Human Rights Department, is to retire shortly. His vast experience and the wisdom of his advice have been of the utmost value to the Committee in the fulfilment of its tasks, and it wishes to express its deepest gratitude for the services he has rendered throughout his long career at the Office.

154. 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

<sup>1</sup> ILO: Summary of reports (articles 19, 22 and 35 of the Constitution), Report III (Parts 1, 2 and 3), International Labour Conference, 79th Session, 1992.

<sup>2</sup> *ibid.*

## GENERAL REPORT

---

the Committee to accomplish its increasingly complex tasks in a limited period of time.

Geneva, 25 March 1992.

(Signed)

J.M. Ruda,  
President.

E. Razafindralambo,  
Reporter.

# REPORT OF THE COMMITTEE OF EXPERTS

## Section IV

### Appendix I

List of the 40 ILO member States which have been asked to submit reports on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

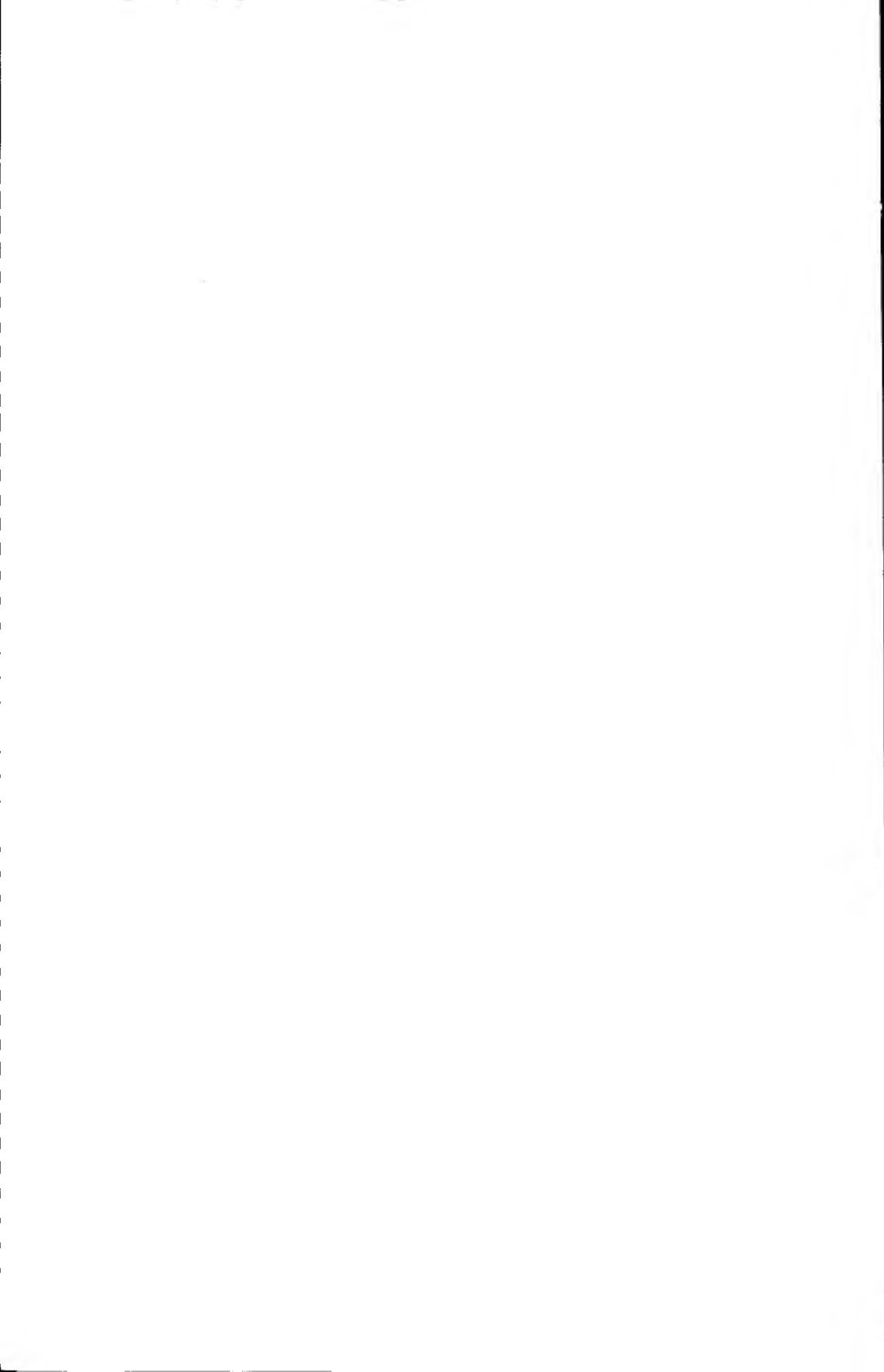
Member States	Reports received	Reports not received
Bahamas	X	
Bahrain		X
Belize	X	
Botswana	X	
Burundi	X	
Cambodia		X
China	X	
Comoros		X
Congo		X
Djibouti		X
El Salvador		X
Equatorial Guinea	X	
Fiji	X	
Grenada		X
Indonesia		X
Ireland	X	
Japan	X	
Kenya	X	
Lao People's Democratic Rep.		X
Lesotho		X
Luxembourg		X
Malaysia		X
Mauritius	X	
Myanmar		X
Namibia		X
Nigeria		X
Papua New Guinea		X
Seychelles		X
Singapore		X
Solomon Islands		X
Sri Lanka		X
Suriname	X	
Tanzania, United Rep. of	X	
Thailand		X
Uganda	X	
United Arab Emirates	X	
United Kingdom	X	
United States	X	
Zaire		X
Zimbabwe	X	
Total: 40	18	22



## GENERAL REPORT

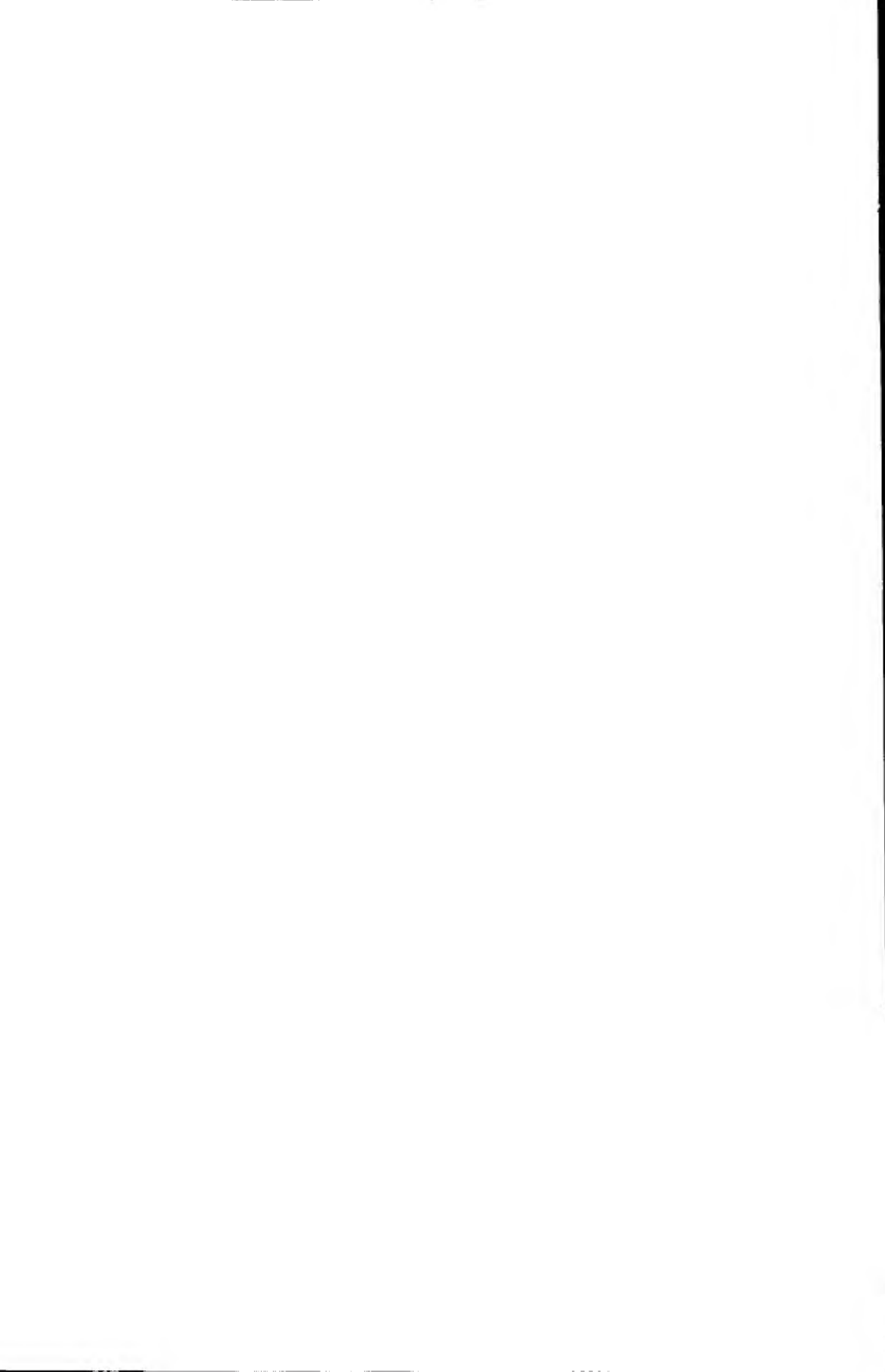
### Additional list concerning non-metropolitan territories

Member States	Reports received	Reports not received
<u>Australia</u>		
Norfolk Island		X
<u>Denmark</u>		
Faeroe Islands		X
Greenland		X
<u>Netherlands</u>		
Netherlands Antilles		X
<u>United Kingdom</u>		
Anguilla	X	
Bermuda	X	
British Virgin Islands	X	
Falkland Islands (Malvinas)	X	
Gibraltar	X	
Guernsey	X	
Hong Kong	X	
Isle of Man	X	
Jersey	X	
Montserrat	X	
Saint Helena	X	
<u>United States</u>		
Guam		X
Northern Mariana Islands		X
Puerto Rico		X
American Samoa		X
Trust Territory of Pacific Islands (Palau)		X
United States Virgin Islands		X
Total: 21	11	10



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 that Albania has been readmitted as a Member of the ILO with effect from 22 May 1991.

It notes that the reports on the Conventions ratified by Albania (Nos. 5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100 and 112) have not been received. It trusts that the Government will supply reports on the application of the Conventions ratified, in accordance with the constitutional obligations, if necessary requesting suitable assistance from the Office.

##### Cambodia

In the absence of any reports for more than 15 years, the Committee is unable to examine the current situation regarding the application of ratified Conventions. It notes the developments in the national situation and hopes that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

##### Cape Verde

The Committee notes that, for the second consecutive year, the reports due have not been received. It trusts that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

##### Ecuador

The Committee notes that the first report due since 1990 on Convention No. 153 has not been received. It trusts that the

Government will in future meet the obligation to supply the report due on the application of this Convention.

Germany

The Committee notes that the reports requested under article 22 of the Constitution for the period ending 30 June 1991 on Conventions Nos. 29, 53, 62, 73, 81, 113, 136, 138 and 139 contain no information on the implementation in law and practice of the provisions of these Conventions in the Länder of Lower Saxony, Brandenburg, Mecklenburg-West Pomerania, Saxony and Thuringia.

Since these Conventions did not apply to these Länder before 3 October 1990, the Committee asks the Government to indicate the measures taken or contemplated to ensure the application of these Conventions in these Länder. It also hopes that the Government will supply specific information on the application of the maritime Conventions to ships previously registered in the former German Democratic Republic.

Ghana

The Committee notes with regret that the first report due since 1988 on Convention No. 148 has not been received. It trusts that the Government will in future meet the obligation to provide the report due on the application of this Convention.

Guinea-Bissau

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

Lao People's Democratic Republic

The Committee notes that, for the second consecutive year, the reports due have not been received. It trusts that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

Lebanon

With reference to the comments it has been making for a number of years, the Committee notes that with the exception of the report due under article 19 of the ILO Constitution, the reports due have not been received. It notes the developments in the national situation and hopes that the Government will be in a position to meet in future the obligation to supply reports on the application of ratified

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

---

Conventions. The Committee therefore resumes comments on the application of certain Conventions the examination of which was suspended owing to the circumstances.

### Liberia

The Committee notes that, for the second consecutive year, the reports due have not been received. It trusts that the Government will be able in future to meet the obligation to supply the reports due on the application of ratified Conventions.

### Madagascar

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

### Mauritania

The Committee notes that the Government has requested a direct contacts mission in connection with the examination of all the problems that concern observance of obligations under international labour standards, including the application of Conventions Nos. 95, 111, 118 and 122, which was the subject of a representation under article 24 of the ILO Constitution. It notes that the above mission will take place in April 1992.

Consequently, the Committee is suspending its examination of the questions raised in its observations of previous years regarding the application of Conventions Nos. 22, 29, 62, 81, 87, 94, 95, 111, 118 and 122, ratified by Mauritania. The Committee hopes that the Government will be in a position to provide full information at the Conference on action taken or planned as a result of the mission.

### Morocco

The Committee notes the comments made by the Democratic Confederation of Labour and the General Union of Workers of Morocco in a communication of 5 March 1991 on the application of Conventions Nos. 2, 4, 11, 12, 26, 29, 81, 98, 99, 100, 105 and 122. In accordance with established practice, the Government was invited by a letter dated 5 April 1991 to make such observations as it might see fit on the comments of these two organisations.

The Committee notes that the Government has supplied no reply in this connection and no reports on these Conventions. The Committee trusts that in future the Government will comply with the obligation to supply reports on the application of the Conventions ratified.

Papua New Guinea

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

Russian Federation

The Committee notes, from a communication dated 26 December 1991 addressed to the Director-General of the International Labour Office, that the Russian Federation indicates that it maintains the commitments previously assumed by the USSR in respect of international labour Conventions. Consequently, and insofar as the Committee's previous observations on the application in the USSR of certain ratified Conventions concerned issues for which the Russian Federation is now responsible, the Committee refers to the individual observations concerning the Russian Federation.

Seychelles

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

Sierra Leone

The Committee notes with regret that, for the fourth consecutive year, the reports due have not been received. It trusts that the Government will in future discharge its obligation to supply reports 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 annexed to it, as adopted by the International Labour Conference in 1988, which invites the Governing Body and the Director-General to use existing ILO procedures to attain the objectives assigned to the ILO under its Programme for the Elimination of Apartheid. 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 once again referred 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 Bantustans which are regarded by it as being self-governing. The Committee repeats the view it has previously expressed to the effect that all of these areas are in its view covered by the ratification of these Conventions, which still apply to them. As it has already indicated, the Committee considers that the creation of the Bantustans constituted an important feature of the system of apartheid and it once again draws attention to the fact that 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 the Government should give full effect to the obligations undertaken when the Conventions were ratified by indicating 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 is affected by the existence of apartheid, in the Bantustans and elsewhere in South Africa.

4. The Committee notes with interest from the Special Reports of the Director-General that the Government has modified or repealed legislation relating to aspects of apartheid in general and in particular to measures relating to the classification of the population by race, residential segregation and the ownership of land. The Committee trusts that the taking of these steps will have a positive impact on labour matters.

5. The Committee is also aware that discussions have been taking place with a view to reaching agreement on the procedure for modifying the Constitution, which at present still embodies the framework for apartheid. It accordingly draws the attention of the Government to its view that international labour standards can only be implemented in practice alongside other basic rights, when apartheid is ended and all citizens of South Africa are able to participate equally and without distinction as to race in the institutions created by a constitution designed to establish social justice and full freedom in post-apartheid South Africa.

6. The Committee also notes with interest that on 19 February 1991 the Government consented to the referral to the Fact-Finding and Conciliation Commission on Freedom of Association of the Governing Body of a complaint presented on 11 May 1988 by the Congress of South African Trade Unions alleging violation of trade union rights in amendments to the Labour Relations Act; and that a panel of that Commission is at present examining that complaint, following a visit which it made to South Africa in February 1992. It understands that the parties agreed that the scope of the inquiry could be expanded to involve deliberation and consideration of the present situation in South Africa as it relates to labour matters with particular emphasis on freedom of association. The Committee hopes that this will

## REPORT OF THE COMMITTEE OF EXPERTS

facilitate an examination of the system of industrial relations and collective bargaining in South Africa in the light of international labour standards. The Committee wishes to be kept informed of any developments in this connection.

### Sweden

The Committee notes that in a communication received by the ILO on 27 February 1992, the Swedish Confederation of Professional Employees presents comments on the application of Conventions Nos. 87, 98, 151 and 154 concerning the restrictions imposed by law on the possibility of concluding collective agreements respecting sick leave.

Since the Government has not yet had time to reply to the comments of the above Confederation, the Committee will examine these specific questions at its next meeting once it has become acquainted with the Government's observations.

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

### Venezuela

The Committee notes that the Governing Body at its 251st Session (November 1991) entrusted the examination of a representation made by the International Organisation of Employers (OIE) and the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS), under article 24 of the Constitution, alleging non-compliance by Venezuela with certain Conventions, to a tripartite committee (Conventions Nos. 4, 81, 88, 95, 100, 111, 143, 144 and 158) and to the Committee on Freedom of Association (Conventions Nos. 87 and 98).

In accordance with normal practice, the Committee is postponing its comments on the application of these Conventions pending the Governing Body's adoption of the conclusions and recommendations of the above-mentioned committees.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Antigua and Barbuda, Argentina, Bahamas, Bangladesh, Barbados, Belarus, Belize, Benin, Bolivia, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Costa Rica, Côte d'Ivoire, Djibouti, Dominica, El Salvador, Equatorial Guinea, Fiji, Ghana, Grenada, Guatemala, Guinea, Guyana, Haiti, Hungary, Ireland, Jordan, Kuwait, Lesotho, Libyan Arab Jamahiriya, Mali, Mauritania, Mauritius, Mexico, Morocco, Myanmar, Nigeria, Qatar, Rwanda, Saint Lucia, San Marino, Sao Tome and Principe, Senegal, Singapore, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Togo, Tunisia, Ukraine, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire.

## B. INDIVIDUAL OBSERVATIONS

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

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

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

Morocco (ratification: 1960)

With reference to its general observation of 1991, the Committee has noted the observations made in March 1991 by the Democratic Confederation of Labour and the General Union of Moroccan Workers to the effect that the National Labour Council and the regional committees provided for by the Decree of 14 August 1967 in order to give advice on matters concerning the carrying on of public employment agencies, have not been established in practice. The above organisations also state that the public employment agencies participate in only 5 per cent of labour market placement activities. The Committee has also noted that these observations were transmitted to the Government in April 1991 for such comments as might be judged appropriate. It observes that no such comments have been received. The Committee recalls in this connection that Article 2, paragraph 1, of the Convention provides for the appointment of committees which shall include representatives of employers and workers to advise on matters concerning the carrying on of free public employment agencies. It would be grateful if, in its next report, the Government would indicate how the committees referred to in this Article are constituted and appointed in practice and what method is adopted for the choice of the employers' and workers' representatives. Please also give a general account of the working of the system of free public employment agencies, indicating in particular, in accordance with the report form, the number of employment agencies set up, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment, by such agencies.

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

\* \* \*

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

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

Article 3(c) of the Convention. In reply to the Committee's previous comments, the Government refers to a Bill prepared by the Ministry of Health to change the 75 per cent state participation in the cost of medical care during confinement by specifying that the provision contained in section 30, subsection 4 of Act No. 18.469 of 23 November 1985 refers only to a minimum participation with regard to beneficiaries belonging to categories C and D whose income exceeds a certain amount. It adds that this amendment to the law, once approved by the President of the Republic and the National Congress, should make it possible - if resources are sufficient - to increase state participation in the costs of medical care during confinement to 100 per cent for these categories of women workers.

The Committee notes this information. It therefore hopes that the Government will be able to take the necessary measures in the near future to ensure that, in accordance with Article 3(c) of the Convention, attendance by a doctor or certified midwife, in particular during confinement, shall be free for all the women workers covered by the Convention, whatever their income. It would be grateful if the Government would indicate progress made in this respect in its next report.

Colombia (ratification: 1933)

1. Article 3(c) of the Convention. The Committee notes with satisfaction the adoption of Decree No. 960 of 12 April 1991 amending section 16(b) of Decree No. 770 of 1975 relating to health and maternity insurance, so as to align, in conformity with this provision of the Convention, the duration of maternity benefits with that of maternity leave (12 weeks), as set out in section 236 of the Labour Code amended by section 34 of Act No. 50 of 1990.

2. The Committee reiterates its hope that the Government's next report will contain information on any progress achieved in extending the territorial coverage of the social security scheme.

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

Nicaragua (ratification: 1934)

In its last report the Government indicates that it is conscious of the validity of the Committee's previous comments, although the present economic situation in the country does not allow it to assume the cost of cash benefits for women not yet covered by the social security scheme. The Committee notes this statement; it nevertheless reiterates its hope that the extension of the social security scheme might take place gradually, so that maternity cash benefits be paid throughout the national territory in conformity with Article 3(c) of

the Convention "by means of a system of insurance", and not by the employer.

The Committee therefore asks the Government to provide, in its next report, information on any further extension of the social security scheme (maternity cash benefit) to all women workers employed in industrial and commercial undertakings covered by this instrument. Please also supply any statistical information on the geographical coverage of the social security scheme, as far as maternity cash benefits are concerned.

Panama (ratification: 1956)

The Committee notes the observations made in April 1991 by the National Council of Organised Workers (CONATO), and the Government's reply to them.

The Committee notes in particular that the question of employment conditions in the export zones is currently being examined at the Legislative Assembly. It hopes that the Government will not fail to provide detailed information in its next report on the results of the above examination along with copies of any legislation that is adopted regarding working conditions in the export zones. It also asks the Government to provide a copy of Act No. 16 of 1990.

With regard to Act No. 25 of 1990, the Committee refers to its observation on this point under Convention No. 87.

Venezuela (ratification: 1944)

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

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: Chile, Colombia, Germany.

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

#### **Bolivia (ratification: 1954)**

In the comments which it has been making for many years on section 58 of the General Labour Act, which authorises the employment of children under 14 years of age as apprentices, the Committee has asked the Government to bring its laws into conformity with the Convention, which makes exceptions to the minimum age for admission to employment or work only for industrial undertakings in which only members of the same family are employed (Article 2 of the Convention) or for work done by children in technical schools, provided that such work is approved and supervised by public authority (Article 3). It has noted further that the Government has referred to a preliminary draft General Labour Act prepared with ILO assistance, which is said to bring the national laws into conformity with the Convention on this point.

The Committee notes that under section 240(b) of the aforementioned preliminary draft Act the minimum age for admission to apprenticeship is set at 14 years. It also notes the Government's statement in its report that the examination of the draft Act, including consultation with employers' and workers' organisations, and its adoption will be completed by December 1992. The Committee asks the Government to supply information on all progress made in this matter.

[The Government is asked to report in detail for the period ending 30 June 1993.]



Brazil (ratification: 1934)

The Committee takes note of the Government's report and the discussion that took place on this case at the Conference Committee in 1991.

1. In its previous comments, the Committee noted that section 7, paragraph XXXIII, of the Federal Constitution of 1988 prohibits all work by all persons under 14 years of age, except apprentices, and that the same provision has been reproduced in section 62 of Act No. 8069 of 13 July 1990 which defines the status of children and young persons.

In its report and in the statement made by a government representative before the Conference Committee in 1991, the Government indicates that according to Brazilian legislation, apprenticeship and work are two very different concepts. Section 62 of Act No. 8069 defines apprenticeship as technical/vocational training given in conformity with the requirements set down in existing legislation on instruction. Section 63 of the same Act sets forth the principles of apprenticeship: guaranteed access to and compulsory attendance at regular classes; activities compatible with the development of adolescence; special schedules. According to the Government, apprenticeship does not have the characteristics of regular work; it is, rather, vocational training designed to prepare minors for entrance into the labour market upon the attainment of the age of 14 years.

The Committee notes that, under section 1 of Decree No. 31546 of 6 October 1952 to which the Government refers in its report, an apprenticeship contract refers to a work contract concluded between an employer and a minor, designed to provide regular vocational training for the employment or work for which the minor has been taken on in the enterprise. It recalls that, under Article 2 of the Convention, children under the age of 14 years cannot be employed or work in any of the establishments covered by the Convention. The exception provided for in Article 3 of the Convention refers to work done by children at technical schools, and not the situation described by the Government in its reports, in which children of under 14 years are engaged as apprentices in enterprises, irrespective of how the apprenticeship is performed or its legal definition.

The Committee again requests the Government to take the necessary measures to bring law and practice into conformity with the Convention which prohibits employment or work by minors of under 14 years in industrial establishments.

2. In its previous comments, the Committee referred to allegations that a large number of children between six and 14 years of age were employed in various industries, in violation of the relevant legislation. The Committee notes the Government's statement in its report, that the labour inspectorate continues to provide sanctions against violations of the labour legislation, including the employment of minors. It also notes the information concerning the "Minha Gente" (My People) project which aims, amongst other things, to integrate large numbers of young people and to prevent their premature entry into the labour market.

The Committee also notes that the Government submitted to the National Congress a proposal to ratify the Convention (No. 138) on Minimum Age, 1973, which, according to the Government, will allow it better to deal with the problems relating to child labour. The Committee requests the Government to furnish it with information concerning all developments in this regard.

The Committee asks the Government to provide detailed information on violations concerning the work of minors recorded by the labour inspectorate. It also asks the Government to continue to provide information on the results of the "Minha Gente" project on the work of minors.

[The Government is asked to provide full particulars at the 79th Session of the Conference.]

Singapore (ratification: 1965)

In reply to the Committee's previous comments, the Government indicates that it will inform the Committee of any new developments in the future.

The Committee recalls that the national legislation relating to the employment of children contains certain provisions which are not in conformity with Article 2 of the Convention. That is, section 4 of the Employment of Children and Young Persons Regulations, 1976, authorises the employment of children above 12 years of age in industrial undertakings with the written permission of the Commissioner for Labour, and section 75(1)(b) of the Employment Act as amended in 1975 authorises the engagement of children below 14 as apprentices, whereas the Convention prohibits any employment of children under 14 years of age in industrial undertakings. The Committee has noted, from the explanations supplied to the Conference Committee in 1987, that in practice no authorisation has been given to children under the age of 14 years to work in industrial undertakings. The Government also stated that it would continue to monitor the situation in order to amend the corresponding provisions, if the need arises.

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

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Belize, Colombia, Czechoslovakia, Grenada, Saint Lucia, Seychelles, Sri Lanka.



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

Senegal (ratification: 1960)

The Committee once again refers to the comments that it has been making for several years, in which it has pointed out that sections 3 and 7 of Order No. 3724 of 22 June 1954 are not in accordance with Article 2 of the Convention (section 3 confines the prohibition of night work to young workers and apprentices, whereas the Convention applies to all young manual and non-manual workers employed in industrial undertakings; section 7 permits exceptions to the prohibition on the night work of young persons that are broader than those authorised by the Convention). The Committee notes from the Government's report that the appropriate amendments to the legislation, which were announced long ago, have not yet been adopted. The Committee trusts that the necessary measures will be taken rapidly to bring the legislation into conformity with the Convention and requests the Government to indicate any progress achieved.

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

Mauritius (ratification: 1969)

Article 2 of the Convention. Further to its previous comments, the Committee notes with satisfaction that the Merchant Shipping Act 1986 has come into operation on 15 January 1991. Section 62, subsection 2, of this Act provides for entitlement to an indemnity against unemployment in the event of loss or foundering of a vessel in accordance with this provision of the Convention by abolishing the possibility of depriving a seaman of the right to unemployment indemnity in cases of shipwreck if he has not exerted himself to the utmost to save the ship, cargo and stores.

Nicaragua (ratification: 1934)

In its previous comment the Committee drew the Government's attention to the fact that the present provisions of the Labour Code (Article 155 in relation with Articles 116 and 117) are not sufficient to ensure that full effect is given to Article 2 of the Convention, which provides that the unemployment indemnity due to seamen, irrespective of the type of contract, in every case of loss or foundering of any vessel, shall be paid for the days during which the seaman remains unemployed at the same rate as the wages payable under the contract, but the indemnity may be limited to two months' wages if the period of unemployment is longer than two months.

In its last report, the Government states that a draft Labour Code is being prepared by the Ministry of Labour with the participation of the social partners and with the assistance of the

ILO with a view to aligning the national legislation with the provisions of ratified Conventions.

The Committee takes note of this information. It trusts that the new Labour Code will be adopted in the near future and will give full effect to the provisions of the Convention.

Panama (ratification: 1970)

The Committee notes the information supplied by the Government. It also notes with interest the Bill (No. 15) to regulate employment at sea and on waterways which, according to the information supplied by the Government on Convention No. 105, has been submitted to the legislative assembly. The Committee hopes that this Bill, section 62 of which provides for an unemployment indemnity in the event of the loss of the vessel, in accordance with Article 2 of the Convention, will be adopted in the near future.

It nevertheless wishes to draw the Government's attention to the fact that, although section 62 of the Bill covers the loss by shipwreck of "any vessel", section 5 restricts the definition of the term "vessel" to ships or boats which undertake the activities of maritime commerce and which are exposed to the risks of navigation. In view of the fact that Article 1, paragraph 1, of the Convention applies to all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned, with the exclusion of ships of war, the Committee hopes that, in order to eliminate any ambiguity, the Government will be able to supplement the text of section 62 with an explicit reference to pleasure boats, which are also covered by the Convention.

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

Seychelles (ratification: 1978)

The Committee notes with regret that for the second time in succession 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 with regret that for the second time in succession 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.

\* \* \*

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

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

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

Colombia (ratification: 1933)

The Committee notes the information supplied by the Government in reply to its earlier comments.

Article 2 of the Convention. The Committee has expressed on several occasions its concern regarding the operation of fee-charging placement services in ports. It notes from the Government's report for the period 1986-90 that in most cases commercial companies do not use the free public employment services but their own recruitment services, or engage seamen through temporary employment agencies. In its earlier comments the Committee referred to Decree No. 1433 of 1983 which permits the continued operation of temporary employment agencies

and fee-charging placement agencies. It notes, from the Government's report for the period ending 30 June 1991, the adoption of Law No. 50 of 1990, sections 71 to 94 of which are regulated by Decree No. 1707 of 1991 and concern the same subject. The Committee reiterates its hope that the Government will not fail to adopt the necessary measures in the very near future in order to give full effect to this Article of the Convention which prohibits the fee-charging placement, or placement by a commercial enterprise for pecuniary gain, of seafarers and provides for legal punishment for any violation.

Articles 4 and 10. The Government indicates that under Decree No. 1421 of 1989 the National Service on Apprenticeship (SENA) has been entrusted with the function of promoting and carrying out the administration of a free public employment service. The Committee requests the Government to indicate the extent to which the employment service reorganised in such a way covers seafarers and, more generally, to supply the information requested by the report from under Article 4. It would like to draw the Government's attention once again to the fact that Article 4 requires the organisation of an efficient and adequate system of public employment offices for finding employment for seamen without charge. It also reiterates its hope that the Government will provide the information, statistical or otherwise, requested in Article 10, paragraph 1. The Committee once again expresses the hope that the necessary measures would be taken by the Government in the very near future with a view to give full effect to the provisions of these Articles.

Article 5. The Committee regrets to note that the Government's report contains no new information in reply to its earlier comments concerning the application of this Article. It asks the Government once again to provide full particulars on measures taken or envisaged in order to give full effect to this Article which provides for consultations to be held with representatives of shipowners and seafarers through advisory committees constituted to advise on matters concerning the carrying on of public employment offices for seafarers.

\* \* \*

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

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

#### **Dominican Republic (ratification: 1933)**

The Committee takes note of the Government's report and of the information supplied by the government representative to the Conference Committee in 1991.

1. In its previous observation, the Committee noted that, under section 232 of the Labour Code, young persons employed in agricultural work were excluded from the scope of section 223 of that Code, which prohibits the employment of children under 14 years of age.

The Committee asked 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 with interest that section 286 of the draft Labour Code submitted to the Congress provides that: "the provisions concerning the work of minors shall not apply when the minors are employed in agricultural work accompanying their parents or with their parents' permission. In no case shall such work obstruct the minor's compulsory education ...".

The Committee hopes that the draft Labour Code will be adopted quickly; it asks the Government to supply a copy once it has been adopted.

2. The Committee also referred in its previous observation to the information given 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 shortage of labour for cutting sugar-cane has caused the plantations to employ child labour for this activity.

The Committee asked the Government to report on the measures taken to give effect to the Convention in the matter of admission to employment and the work assigned. In addition the Committee asked the Government to supply copies of inspection reports referring to the checks made on the employment of minors and containing data on violations reported and penalties imposed.

The Committee takes note of Circular No. 0029 of 9 May 1991 of the State Sugar Board concerning the measures that should be taken by plantation managers to eradicate the practice of engaging minors.

The Committee also takes note of the various inspection reports supplied by the Government. It asks the Government to continue to report on any other measure taken or contemplated to ensure compliance with the Convention in practice, and to supply copies of the relevant inspection reports.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Austria, Colombia, Czechoslovakia.

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

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

Malaysia (ratification: 1960)

The Committee notes the information supplied by the Government in response to its previous observation, as well as the discussion which took place in the Conference Committee on the Government's application of Article 1 of the Convention regarding the denial of the right to form trade unions of workers engaged in agriculture other than those working on plantations who can unionise.

The Committee notes from the Government's explanation that the Trade Union Act, 1959 only regulates the formation and functioning of trade unions whose members are workers employed under a contract of service, and that self-employed or other farmers not so covered are free to further and defend their interests through bodies registered under the Societies Act, 1966 and the Cooperatives Act, 1948. The Committee recalls, however, that, according to the Malaysian Trades Union Congress comments, by virtue of this exclusion from the Trade Unions Act, certain persons engaged in agriculture cannot join the organisation of their choice and have lesser rights than persons engaged in industry.

The Committee thus regrets, as did the Conference Committee, that only agricultural workers on plantations enjoy the rights to form unions, particularly in view of the specific terms of this Convention requiring that "all those engaged in agriculture" (emphasis added) enjoy the same rights as industrial workers for the purpose of association and combination. It requests the Government to supply data on the number of associations covering agricultural workers and agriculturalists apart from the five plantation unions mentioned in its report, and to indicate any measures taken or contemplated to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers with a view to bringing the national law and practice into conformity with the requirements of the Convention.

\* \* \*

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

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

#### Colombia (ratification: 1933)

For a number of years, the Committee has been drawing the Government's attention to the need to amend the Labour Code in order to ensure that, pending the extension of the coverage provided by the social security scheme to the whole of the national territory, all agricultural wage-earners, without exception, benefit from compensation for industrial accidents that is equivalent to the levels established by the social security scheme. In this context, the Committee notes that Act No. 50 of 1990 to reform the Labour Code has not changed the existing situation.

In its report, the Government refers in particular to section 48 of the new Constitution, which encompasses the right to social security, and to interim section No. 57, which provides that a tripartite committee shall be set up in order to make proposals on reforming the social security system within 180 days following the coming into force of the Constitution. According to the information supplied by the Government, it was envisaged that the above tripartite committee, which is chaired by the Minister of Labour and Social



Security, should submit a draft reform of the social security system to Congress in December 1991.

The Committee notes this information with interest. It also notes the National Occupational Health Plan 1990-95, which was supplied by the Government with its report. This document shows that in the agricultural and stock-raising sectors, between 60 and 96 per cent of workers are not covered by social security. It therefore hopes that, within the context of the reform of the social security system, the Government will be able to take the necessary measures to progressively extend to the whole of the national territory the branch of the social security scheme concerning the compensation of industrial accidents, so as to cover all employees in the agricultural sector who come within the scope of the Convention. While awaiting the achievement of this objective, the Committee cannot but urge the Government once again to take the necessary measures to amend the Labour Code to the extent that it sets out lower levels of compensation as regards the duration of both medical care and cash benefits, than those fixed by the compulsory social security scheme. It hopes that the Government's next report will contain information on the progress achieved in this respect. The Committee also requests the Government to continue supplying information, including statistical data, on the extension of the industrial accident branch of the social security scheme to the rural sector.

Finally, the Committee once again requests the Government to supply a copy of the social security regulations provided for in section 132 of Decree No. 1650 of 1977.

#### Malaysia (ratification: 1961)

##### Peninsular Malaysia

Further to its previous comments, the Committee notes the information supplied by the Government in its reports received in June 1991 and February 1992, as well as the written and oral information communicated by the Government to the Conference Committee in June 1991 and the discussion that was held therein.

The Committee recalls that in its observation made in November 1989 the Malaysian Trades Union Congress (MTUC) stated that 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.

In reply to this observation, the Government indicates that so long as the workman works under a contract of employment he is entitled to compensation for injuries sustained at work under the Workmen's Compensation Act, 1952, or the Employees' Social Security Act, 1969, depending on the size of the undertaking. Agricultural industries are liable for coverage under the Act of 1969, except for the exemption given for all agricultural workers who are employed for the purpose of cultivating, upkeeping and harvesting paddy. In its latest report the Government states however that it has taken steps to amend this Act, in order to extend its coverage to all establishments

employing one or more workers as well as to all agricultural workers; these amendments will be enforced in 1992.

The Committee notes this information with interest. It hopes that the Government will be able to provide a copy of the amendments to the Employees' Social Security Act of 1969 with its next report. It also asks the Government to indicate whether any use has been made of the power to exclude any class of persons that may concern specifically agricultural wage-earners from the scope of the above-mentioned Acts by declaring them not to be workmen for the purpose of this legislation (section 2(1) of the Workmen's Compensation Act of 1952 and section 2(5) and the First Schedule to the Employees' Social Security Act of 1969).

Finally, the Committee requests the Government to supply detailed information, both in respect of plantation workers and other agricultural wage-earners, on the practical application of the Convention, including statistical data, as required by point V of the report form adopted by the Governing Body.

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

#### Morocco (ratification: 1956)

In its general observation of 1991, the Committee requested the Government to report in detail in response to the comments made on 5 March 1991 by the Democratic Confederation of Labour and the General Union of Workers of Morocco on the application by Morocco of several Conventions including Convention No. 12. According to these comments, the defective and limited supervision exercised by the labour inspectorate in the agricultural sector is depriving the workers of their social protection and stability in employment and encouraging agricultural employers not to declare industrial accidents and to flout their obligations in that respect. The two organisations also allege that agricultural workers often relinquish their rights because they are ignorant of the law and wish to avoid judicial proceedings which would require them to appear before a tribunal in the city. Hence, the absence or limited presence of labour inspectors in agriculture has the effect of preventing effective implementation of a system of industrial accident compensation in that sector. Finally, the Democratic Confederation of Labour and the General Union of Workers draw attention to the absence of any Ministry of Labour statistics of industrial accidents occurring in the agricultural sector.

The Committee notes that the report which the Government was asked to supply for the period ending 30 June 1991 has not been received. It trusts that the Government will not fail to supply, for examination at its next session, detailed information in response to the comments of the Democratic Confederation of Labour and the General Union of Workers and on all measures taken or contemplated in that connection. The Committee also hopes that the Government will supply information on the application of the Convention in practice in accordance with point V of the report form adopted by the Governing Body. In this context, it hopes that statistics can be supplied



concerning the number of employees in the agricultural sector who are protected by the industrial accident compensation scheme in proportion to the total number of employees in that sector; concerning the number of industrial accidents occurring in agriculture; and concerning the amount of benefits granted in case of the worker's incapacity, invalidity or death. Please also supply information concerning the number of inspections carried out to verify the application in agriculture of the industrial accident compensation law and concerning the number and nature of the violations detected.

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

Rwanda (ratification: 1962)

The Committee is bound to observe from the information communicated by the Government in reply to its previous comments, that the necessary legislative measures to formally extend the scope of the Legislative Decree of 22 August 1974 (organising social security) to all agricultural wage-earners, including dayworkers and temporary workers, have still not been adopted. It notes, however, the Government's statement that radical changes in this area are envisaged in the context of the labour legislation reform requested by the World Bank as part of the Structural Adjustment Programme being implemented in Rwanda since October 1990.

The Committee therefore trusts that the Government will do its utmost to ensure that the national legislation is brought formally into line with the Convention which was ratified 30 years ago, by explicitly extending the scope of the above-mentioned Legislative Decree to all agricultural workers, including dayworkers and temporary workers. In this connection, the Committee suggests that the Government might wish to avail itself of technical assistance from the International Labour Office.

[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: Angola, Brazil.

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

Afghanistan (ratification: 1939)

With reference to its previous observation, the Committee notes with interest the text of the regulations concerning the use of white lead in painting, supplied by the Government with its report. The Committee notes that regulation 7 provides that the regulations will enter into force after being published in the Official Gazette. The Government is requested to provide a copy of the relevant Official

Gazette with its next report and to indicate which authorities are to ensure compliance with these regulations. The Committee is raising further comments in a request addressed directly to the Government.

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 adoption of the texts to be made under the Act on Occupational Health and Safety and Occupational Medicine of 1987 which are to implement the provisions of the Convention has been delayed due to the priority given to the adoption of legislative texts resulting from the economic and political reforms introduced by the Government. It notes the Government's indication in its report that it has not lost sight of the necessity and importance attached to adopting texts concerning occupational safety and health and that the emphasis is currently on the implementation of technical standards including, among others, those concerning occupational safety and health.

The Government has indicated that technical assistance was requested from the Office in 1990 to examine the texts being elaborated and to review the possibility of bringing them into conformity with the standards set forth in ratified Conventions. Furthermore, the Government has stated that white lead and sulphate of lead are not used in painting work because they have been replaced by non-toxic products which are more advantageous both from a financial point of view and with regard to the protection of workers' health.

The Committee accordingly trusts that the necessary provisions to ensure the application of the Convention in law as well as in practice will be adopted in the near future and that they will 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 males under 18 years of age and of all females 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 report in detail for the period ending 30 June 1992.]

Belgium (ratification: 1926)

With reference to its previous comments, the Committee notes with satisfaction the Royal Order of 5 November 1990 amending the General Regulations for Occupational Protection and prohibiting the use of paint containing white lead or its pigments except for artistic painting.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Argentina, Austria, Benin, Cameroon, Central African Republic, Chile, Comoros, Congo, Cuba, Djibouti, Finland, France, Greece, Guinea, Iraq, Italy, Lao People's Democratic Republic, Luxembourg, Madagascar, Mali, Malta, Mexico, Netherlands, Nicaragua, Niger, Norway, Poland, Romania, Senegal, Suriname, Sweden, Uruguay, Venezuela, Yugoslavia.

Information supplied by Bulgaria, Czechoslovakia, Gabon, Hungary, Panama, Togo, Tunisia in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following States: Bahamas, France, Malaysia, New Zealand.

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

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

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

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

Requests regarding certain points are being addressed directly to the following States: Belize, China, Dominica, Seychelles, Solomon Islands.

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

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

Angola (ratification: 1976)

With reference to its previous comments, the Committee notes with interest the adoption of the Act respecting the social security system, No. 18/90 of 27 October 1990, and the other legal texts supplied by the Government with its report. It notes in particular that section 58 of the above Act provides for the adoption by the Council of Ministers of implementing regulations respecting compensation for industrial accidents and occupational diseases; pending the publication of these regulations, the compensation of industrial injuries is vested with the National Insurance and Reinsurance Company (ENSA), under the terms of section 59 of the Act.

The Committee, however, notes that in the absence of such regulations and in view of the fact that the previous legislation (the Rural Labour Code of 1962 and the Angolan Labour Code of 1957) was formally repealed by section 169 of the General Labour Act of 1981, there would appear to be no specific legal provisions which currently provide for the payment of cash benefits to the victims of industrial accidents.

In these conditions, the Committee hopes that the implementing regulations concerning the compensation for industrial accidents and occupational diseases provided for in section 58 of Act No. 18/90 of 1990 will be adopted in the very near future in order to give full effect to the Convention, and in particular to Articles 6 to 8. It requests the Government to indicate the progress achieved in this respect in its next report and to supply the text of the above regulations when they have been adopted.

The Committee also draws the Government's attention to certain points that it is raising in a direct request.

#### Colombia (ratification: 1933)

1. For many years, the Committee has been pointing out to the Government the need, until the social security scheme is extended to the whole of the national territory, to amend sections 204, 223(c), 224 and 225 of the Labour Code respecting the compensation of industrial accidents in order to give full effect to the Convention. In this connection, the Committee is bound to note that the reform of the Labour Code, to which the Government referred previously, and which was adopted through Act No. 50 of 1990, has not affected the above sections.

In its report the Government refers to certain provisions of the new Constitution, and in particular to section 48 respecting the right to social security. It also refers to section 53 of the Constitution, under which "international labour Conventions duly ratified are part of domestic legislation", stating its intention to adopt special regulations to give effect to this Convention.

While noting this information, the Committee is bound to urge the Government once again to take the necessary measures to amend the legislation respecting the compensation of industrial accidents in order to bring it into full conformity with the Convention on the following points:

Article 2 of the Convention. The exceptions and limitations concerning the persons and establishments covered under sections 223(c), 224 and 225 of the Labour Code are not authorised by the Convention.

Article 5. Section 204 of the Labour Code and sections 22 and 35 of Decree No. 3135 of 1968, which apply to public servants and public employees, provide for the payment of compensation in a lump sum corresponding to a certain number of months' wages in the event of permanent incapacity (partial or total incapacity or complete disability) and also in the event of death, whereas under this provision of the Convention compensation must, as a rule, be paid in the form of periodical payments and may not be converted into a lump

sum unless guarantees of its proper utilisation are provided to the competent authorities.

Article 7. The national legislation does not envisage the provision of additional compensation to victims of industrial accidents whose incapacity is of such a nature as to need the constant help of another person throughout the contingency.

Article 9. Section 204(1) of the Labour Code limits the provision of medical, pharmaceutical, surgical and hospital care to victims of industrial accidents to two years, whereas, according to this provision of the Convention, such assistance shall be provided free of charge throughout the contingency.

Article 10. Section 204(1) of the Labour Code and section 21(b) of Decree No. 1848 of 1969 issuing regulations under Decree No. 3135 of 1968, do not explicitly provide for the compulsory renewal of artificial limbs and surgical appliances to the victims of industrial accidents, which is contrary to this provision of the Convention.

2. With regard to the extension of the social security scheme to the whole of the population and the national territory, the Committee notes the analysis of the situation contained in the National Occupational Health Plan 1990-95, which was supplied by the Government with its report on Convention No. 12. According to this paper, the number of people protected by social security institutions currently represents only 31.2 per cent of the active population, while the percentage of persons who are not protected in certain occupations may be as high as 96 per cent (for example, mining activities; small industrial enterprises; and the construction, transport, commercial and services sectors (with the exception of electricity, gas and water)). With a view to improving the situation and developing the social security system, particularly as regards protection against industrial accidents, the plan envisages a whole series of measures, including the compilation of detailed statistics on industrial accidents. The Committee therefore hopes that these measures will make it possible for the Government to supply with its next report statistical information indicating the number of workers protected by the employment injury benefits branch, whether they are wage-earners, employees or apprentices, and their percentage in relation to all employees (with the exception of the agricultural sector and seafarers) covered by the Convention, in both the public and private sectors. It also requests the Government to continue to supply detailed information on the progress that has been achieved with a view to progressively extending the social security scheme throughout the national territory.

#### Iraq (ratification: 1960)

Article 2 of the Convention. In reply to the Committee's previous comments, the Government indicates that section 112 of Act No. 71 of 1987 to issue the Labour Code provides for the application to uninsured workers of the provisions respecting industrial accidents of Act No. 39 of 1971 respecting workers' retirement and social security, and that protection against industrial accidents therefore covers all establishments, both public and private, irrespective of

the number of workers employed therein. The Committee notes this information with interest. It requests the Government to indicate in its next report the categories of workers who may thus benefit from the extension of protection in respect of compensation for industrial accidents in both the private and public sectors.

The Committee would also be grateful if the Government would indicate whether section 112 of Act No. 71 of 1987 only concerns workers whom the employer has omitted to insure, as they are covered by Act No. 39 of 1971 respecting workers' retirement and social security, or whether it also covers workers who cannot be insured because they do not lie within the scope of the social security. Finally, the Committee requests the Government to supply the texts of legislative provisions, regulations or administrative measures adopted by the Social Security Institute to give effect to the principle set out in section 112 of Act No. 71 of 1987.

Article 5. In reply to the Committee's previous comments on the question of ensuring the proper utilisation of the compensation paid in the form of a lump sum in the case of permanent partial incapacity of less than 35 per cent, the Government states that the beneficiaries in question receive the compensation and at the same time keep their job and the whole of their wage. While noting this information with interest, the Committee requests the Government to indicate the relevant provisions which ensure that workers suffering permanent incapacity of less than 35 per cent retain their jobs and their wages.

#### Kenya (ratification: 1964)

1. With reference to its previous comments, the Committee notes the information provided by the Government in its reports received in June and August 1991 as well as the information communicated to the Conference Committee.

According to the information supplied by the Government, the various comments formulated previously by the Committee and the International Labour Office on a draft Work Injury Benefits (Insurance) Scheme Bill have been duly taken into account in a redrafted text which was placed before the National Tripartite Labour Advisory Board before submission to Parliament. As indicated in the government report received in June 1991 a copy of the redrafted Bill was sent to the ILO for further study and comments. The Committee notes, however, that the text supplied is identical to the previous draft at least with regard to the points the Committee and the Office had raised previously. Under these circumstances the Committee finds it necessary to once again draw the attention of the Government to certain divergencies between the draft Bill and the Convention which were already indicated in its previous observation.

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 worker who is a 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 hopes that the redrafted Work Injury Benefits (Insurance) Scheme Act will take into account the above points as well as the comments made previously by the Office and that it will be adopted soon 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 also notes with interest that the Government decided to immediately update the existing Workmen's Compensation Act with a view to meeting the requirements of Article 5 of the Convention, as well as to raise levels of payments for medical, surgical or pharmaceutical aid in case of industrial accidents in order to give better application to Articles 9 and 10. Pending the adoption of the Work Injury Benefits (Insurance) Scheme Act, the Committee hopes that such amendment to the Workmen's Compensation Act will be adopted in the very near future.

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

#### Myanmar (ratification: 1956)

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

In its report, the Government indicates that important changes have been made since September 1988 as regards the political, economic and social structure. It stresses in particular that Myanmar is in the process of establishing a multi-party democratic system in place of the existing single-party political structure. The socialist economy has recently been replaced by an open economic policy. Labour laws are once again in the process of being revised to bring them into conformity with the changes. The Government reconstituted the Labour Laws Reviewing Committee in July 1989. Consequently, the comments of the Committee of Experts will be taken into consideration throughout the revision process.

The Committee notes this information. It trusts that the above modifications will be made as rapidly as possible so that the national legislation will provide:

- (a) in accordance with Article 5 of the Convention, that the compensation payable to the injured workman or his dependants, where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments, provided that it may be wholly or partially paid in a lump sum if the competent authority is satisfied that this will be properly utilised;
- (b) in conformity with Article 10, that no maximum amount shall be fixed for the supply and normal renewal of such artificial limbs and surgical appliances as are recognised to be necessary.

The Committee requests the Government to indicate any progress achieved in this respect.

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

#### Philippines (ratification: 1960)

Article 7 of the Convention. Further to its previous comments, the Committee notes with interest the information supplied by the Government that pursuant to Executive Order No. 400, dated 26 April 1990, all permanent disability pensioners were granted an additional carer's allowance. The Committee would like the Government to supply the text of this Order with its next report.

In addition, the Committee draws the Government's attention to certain points concerning Article 5 of the Convention in a direct request.



Sierra Leone (ratification: 1961)

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

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.

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)

1. Article 5 of the Convention. In reply to the Committee's previous observation, the Government indicates that a new draft of the "Consolidated Social Security Legislation" is being prepared with the help of the International Labour Office and that the final text will be communicated to the Committee for comments. The Committee notes this information and once again expresses the hope that the above-mentioned legislation will be adopted soon and that consequently the Workmen's Compensation Ordinance, Chapter 263, will be amended so as to ensure, in accordance with this Article of the Convention, that the compensation payable to the injured worker, 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 once again asks the Government to supply the text of the 1986 Workmen's Compensation Act applicable to Zanzibar, which has not yet been received in the ILO.

\* \* \*

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

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

#### Angola (ratification: 1976)

With reference to its previous comments, the Committee notes with interest the adoption of the Act respecting the social security system, No. 18/90 of 27 October 1990, and in particular that section 58 of the Act provides for the adoption by the Council of Ministers of regulations respecting the compensation of industrial accidents and occupational diseases.

The Committee, however notes that in the absence of these regulations and in view of the fact that the previous legislation (the Rural Labour Code of 1962 and the Angolan Labour Code of 1957) was formally repealed by section 169 of the General Labour Act of 1981, there appear to be no specific legal provisions that currently give effect to the Convention.

In these conditions, the Committee cannot but express the hope that the regulations respecting the compensation of industrial accidents and occupational diseases provided for in section 58 of Act No. 18/90 will be adopted in the very near future. It also hopes that these regulations will provide, in accordance with Article 1 of the Convention, for compensation to workmen incapacitated by occupational diseases, or to their dependants, in accordance with the general principles relating to compensation for industrial accidents, and that it will also contain a schedule of occupational diseases, including all the diseases and processes that are liable to provoke them, as set out in the Schedule annexed to Article 2. It requests the Government to supply detailed information on the progress achieved in this respect and to supply the text of the above regulations when they have been adopted.

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

With reference to its previous observation, the Committee notes the Government's statement that owing to the structural changes that have taken place within the Ministry of Public Service and Labour, it has been unable to complete the existing legislation by including a list of occupational diseases, in accordance with the provisions of Article 2 of the Convention. The Committee notes, however, that the matter is being examined and that the Government intends to resolve this in the near future. In view of the importance of this question, the Committee cannot but insist once again that the void which it noted in the legislation be filled by the adoption, in the very near future, of a list of occupational diseases including, at least, those enumerated in the schedule appended to Article 2 of the Convention.

which shall be recognised as occupational diseases when they are contracted in the circumstances specified in the above schedule.

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

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

#### Central African Republic (ratification: 1964)

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

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

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

#### Iraq (ratification: 1940)

The Committee notes the Government's report as well as the conclusions and recommendations approved by the Governing Body at its 250th Session (May-June 1991) of the committee set up to consider the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution alleging non-observance by Iraq of a number of Conventions. It notes in particular that these conclusions referred to a report sent by the President of the Bureau of Egyptian Workers in Iraq to the President of the Federation of Egyptian Trade Unions which stated (with examples) that the contracts of engagement of workers in arms factories in Iraq provide no rights for these workers and that they can be faced with problems in case of accidents. As both Egypt and Iraq are bound by Convention No. 19, the Government was asked to include in its next report on the application

of the Convention, information on equality of treatment of foreign workers, so as to enable the Committee of Experts to examine the question.

In its report the Government indicates that equality of treatment between national and foreign workers as regards social security benefits is ensured by section 8 of the Labour Code of 1987, and sections 3 and 38 of Law No. 39 of 1971 on workers' pensions and social security. In its report on Convention No. 118 the Government also indicates that in all cases where requests were made for payment of benefit abroad the Ministry of Labour had delivered the necessary authorisation; it also supplied statistics showing that during 1990 more than 33,000 Egyptian workers left Iraq as did nationals of other countries bound by Convention No. 19 (in particular nationals from Sudan, Bangladesh, India, Pakistan, Somalia, Tunisia, Lebanon, Morocco, Djibouti, Syrian Arab Republic and Algeria).

The Committee notes this information. It points out, however, that the Government's report does not contain any specific information as regards the particular situation of Egyptian workers in sectors of strategic importance such as the arms factories who may have been deprived of their rights, including the right to social security benefits in case of industrial accidents, because they left Iraq. The Committee notes in this connection that under section 38(b)(ii) of Law No. 39 of 1971 an Arab citizen may receive payment of compensation abroad only if he has "returned to his country at the end of his insured period of service or has died". It appears from this provision that Arab workers who leave Iraq before their contract period has expired, as was the case for many Egyptian workers fleeing the country for fear of war, or who settle in a country other than their country of origin, may be refused payment of compensation due to them. Since, under the same provision, no such restrictions are applied in respect of Iraqi workers, the Committee asks the Government to indicate measures taken or contemplated to ensure equality of treatment between national and Arab workers in respect of compensation for industrial accidents, in particular, in case of residence abroad.

So far as nationals of any State bound by the Convention other than Arab countries are concerned, the Committee recalls that, under section 38(b)(iii) of Law No. 39 of 1971, no payment of benefits is made outside Iraq except under reciprocity agreements or international labour Conventions and subject to the necessary authorisation under Instruction No. 2 of 1978 regarding the payment of social security pensions to insured persons leaving Iraq. The Committee would like the Government to indicate in its next report measures taken or contemplated at the level of the Iraqi Institute of Social Security to ensure without any restrictions that in all cases workers' compensation benefits are paid to all workers who are nationals of a country bound by the Convention in their new country of residence.

Finally, the Committee would like the Government to provide information on the following points:

- Please specify any particular contractual conditions that may affect the right of foreign workers engaged in a sector of strategic importance, such as arms factories, to receive compensation for industrial accidents both in Iraq or in the country of their new residence.

- Please indicate the number and nationality of foreign beneficiaries receiving payment of compensation for industrial accidents abroad, as well as the amounts of such compensation actually transferred.
- Please indicate whether workers who had left Iraq at the time of the war and who had no opportunity to present their requests for payment of the compensation due to them, may do it now from their new place of residence abroad and if so, in what way.

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

Portugal (ratification: 1929)

In reply to the Committee's previous comments, the Government confirms its intention of bringing the legislation into conformity with the Convention with regard to the regulations respecting industrial accidents. It adds that the responsible authority, namely the Ministry of Finance, has been duly informed. The Committee notes this information with interest. It hopes that pending the integration of industrial accident compensation into the unified social security scheme, it will be possible to take the necessary measures in the near future to amend Act No. 21/27 of 3 August 1965 respecting industrial accidents with regard to the following points:

Article 1 of the Convention. Section III of Act No. 21/27 of 3 August 1965 does not treat Portuguese workers and foreign workers employed in Portugal on the same basis "unless the legislation of the country in question grants equal treatment to Portuguese workers", whereas, according to this provision of the Convention, equality of treatment shall be granted to the nationals of any other Member which has ratified the Convention, regardless of whether the legislation of that other country grants equality pursuant to the Convention.

Article 2. Section III, paragraph 3, of the above cited Act excludes from the scope of the Act foreign workers who are employed by a foreign enterprise and whose right to compensation is recognised under the legislation of their own country, whereas such an exclusion is not authorised by the Convention unless the employment of the foreign workers concerned is of a temporary or intermittent nature and such exclusion is provided for in a special agreement between the Members concerned.

The Committee requests the Government to supply information on any progress achieved in this respect.

Syrian Arab Republic (ratification: 1960)

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

[The Government is asked to report in detail for the period ending 30 June 1993.]

\* \* \*



In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Burundi, Cape Verde, Comoros, Guinea-Bissau, Lebanon, Mauritius, Nigeria, Saint Lucia, Senegal, South Africa, Sudan.

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

#### Colombia (ratification: 1933)

In the comments it has been making for many years, the Committee has drawn the Government's attention to the need to adopt specific legislation for seafarers to give effect, in particular, to this Convention. For this purpose, a Bill on the work of seafarers was drafted in 1983 with the collaboration of an ILO expert. In its report for the period 1988-89, the Government stated that the above Bill was to be re-examined by the Ministry of Labour and Social Security owing to a recent change of Government. In its last report, the Government does not mention the Bill in question and refers to legislation that the Committee already examined years ago and found inappropriate for the specific case of seafarers. In information provided more recently, the Government states that section 53 of the new Political Constitution of Colombia, which has been in force since July 1991, provides that "duly ratified international conventions are part of domestic legislation". The Committee takes note of this information but wishes to recall that, notwithstanding, certain provisions of Convention No. 22 are not self-executing but require the authorities to take specific legislative measures for their application. The provisions in question are Article 3, Article 4, paragraph 1, Articles 5 and 8, Article 9, paragraphs 2 and 3 and Articles 11, 12 and 15. The Committee therefore trusts that the Government will spare no efforts to ensure that effect is given to the above-mentioned provisions of the Convention in the near future, and will provide information in this regard in its next report.

[The Government is asked to report in detail for the period ending 30 June 1993.]

#### Liberia (ratification: 1977)

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

With reference to its earlier comments, the Committee notes with interest the information and legislative texts supplied by the Government concerning the application of Articles 1(g), 2(d), 4, 6, 7, 8, 9, paragraphs 1 and 3, and 12 of the Convention. It hopes that the Decree giving effect to the Convention and the relevant provisions of the future Labour Law, announced by the Government, will also give effect to Articles 3 paragraph 4, 5

paragraph 2, 9 paragraph 2, 10(a) and (b), 13 and 14 paragraph 2, of the Convention.

Pakistan (ratification: 1932)

Article 1 of the Convention. The Committee's previous comments addressed the need to extend the scope of the legislation to cover seamen engaged on Pakistani ships in ports outside Pakistan, and the Merchant Shipping Bill which, the Government assures, will give effect to the Convention in this respect. The Committee notes from the Government's report that the above Bill could not be adopted at the last session of Parliament and that it will again be placed before it shortly.

With regard to the observations submitted by the Marine Engineers' Association of Pakistan and the Society of Maritime Chief Engineers of Pakistan concerning the application of Article 5, paragraph 2, the Committee notes the Government's statement in its report that measures have been taken, as part of the amendment of the Merchant Shipping Act, 1923, to ensure that the master of the ship shall not make any observations on the "quality" of the work of seamen. The Committee therefore assumes that the columns on "ability" and "conduct", which are considered to be prejudicial to seafarers by both the above-mentioned associations, are to be removed. It asks the Government to provide with its next report a specimen of the continuous discharge certificate thus amended.

The Committee also refers to the communication from the Fishing Vessels Employees' Union which mentions Convention No. 22 among other ILO Conventions which, reportedly, are not being correctly applied in respect of Pakistani fishermen. The Committee observes, however, that fishermen are not covered by Convention No. 22 and that Pakistan has not ratified the Fishermen's Articles of Agreement Convention (No. 114), 1959.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Panama (ratification: 1970)

With reference to its previous observation, the Committee takes note of the preliminary draft on employment in the merchant marine provided by the Government with its report. The Committee notes with interest that the Bill allows a contract for an indefinite period to be terminated in any port (section 45), in accordance with Article 9, paragraph 1, of the Convention, provided, however, that notice of a period of at least the duration of the last voyage has been given. The Committee would be grateful if, in its next report, the Government would state whether the legislation defines the term "voyage" and would indicate the average duration of a voyage bearing in mind present navigation conditions. The Committee trusts that the enactment of the Bill will be completed by the repeal of section 257 of the Labour Code which prohibits the termination of a contract in ports other than the port of engagement.

However, the Bill does not appear to make provision to ensure that the seaman has understood the agreement (Article 3, paragraph 4). The Committee hopes that it will be possible for an appropriate clause to be inserted into the Bill and that the Government's next report will contain information on progress made in this respect.

Peru (ratification: 1962)

Article 5, paragraph 2, of the Convention. With reference to its previous comments, the Committee notes that, according to the Government's report it is planned to amend the Regulations on Harbourmasters and Maritime, River and Lake Activity, so that the seaman's record book which is provided for in the said Regulations, contains no statement as to the quality of his work. It hopes that, with its next report, the Government will be able to provide a specimen of the record book thus amended.

Article 6, paragraph 3(8) and (11). The Committee notes that the Government has not indicated in its report the measures taken to ensure that the articles of agreement specify the list of provisions supplied to the seaman and the annual leave with pay granted him, in accordance with national law. It reiterates the hope that, in its next report, the Government will provide a copy of a contract so modified.

Article 9, paragraphs 1 and 2. The Committee notes that it is planned to amend the Regulations on Harbourmasters so 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. The Committee hopes that the Government will be able to indicate in its next report that the above-mentioned amendments have been introduced and that they will take account of the provisions of paragraph 2 of this Article (notice to be given in writing and national law to specify the manner of giving notice to preclude any subsequent dispute between the parties).

\* \* \*

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

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

Ireland (ratification: 1930)

Article 3, paragraphs 1 and 4, of the Convention. In its previous comments, the Committee pointed out that section 32 of the Merchant Shipping Act of 1906 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 recalled 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.

The Committee notes from the information supplied by the Government to the Conference Committee in June 1991, that these matters are still under consideration and that every effort will be made by the Government to effect the necessary legislative amendments as soon as possible. The Committee trusts that the Government will be in a position to inform it that these amendments have been effected in its next report.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Liberia (ratification: 1977)

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

Further to its previous comments, the Committee notes with interest the legislative texts supplied by the Government concerning the application of the Convention.

Article 5 of the Convention. The Committee notes the Government's statement in its report to the effect that a relevant provision of the future Labour Law will give effect to this Article.

It hopes that the necessary measures in this respect will be shortly adopted.

\* \* \*

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

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

Chile (ratification: 1931)

The Committee has taken note of the information supplied by the Government in its report and in particular of the statistical data on compulsory sickness insurance.

Article 7, paragraph 1, of the Convention. In response to the Committee's previous comments concerning this provision of the Convention, which requires employers to share in providing the financial resources of the sickness insurance system, the Government states that the health benefits scheme provided for in Act No. 18469 of 23 November 1985 is financed out of resources apportioned by the State through the National Health Fund and out of workers' compulsory contributions, notwithstanding the direct payments made pursuant to sections 28 and 29 of the Act in accordance with Legislative Decree

No. 3501 of 1980. With regard to workers who voluntarily opt to leave the General Health Benefits Scheme instituted by Act No. 18469 and enter a Health and Welfare Institution (ISAPRE) on the terms now spelt out in Act No. 18933 of 1990, the Government adds that the financing of the health benefits which such institutions are under a duty to grant directly or indirectly comes from the contributions made by the members under their respective contracts. This occurs notwithstanding the financing provided by the State to ISAPRE through the Single Fund for Family and Unemployment Benefits. The Government considers, moreover, that although, in accordance with the new structure of contributions instituted by Legislative Decree No. 3501 of 1980, insurance contributions are paid by the workers, this does not mean that they suffer any reduction in the cash amount of their remuneration, since the same legal rule provides for an increase in their cash remuneration, which includes the employer's contribution.

The Committee takes note of this information. It also notes that, according to the Government's report, the contributions charged to the employer in accordance with the provisions of Legislative Decree No. 3501 of 1980 were waived with effect from May 1981. The Committee therefore takes the view that, to give full effect to this provision of the Convention, employers should share directly in providing the financial resources of the sickness insurance system in favour of the wage-earners. The Committee consequently hopes that the Government will adopt the necessary measures to give full effect to this provision of the Convention.

[The Government is asked to provide a detailed report for the period ending 30 June 1992.]

#### Colombia (ratification: 1933)

With reference to its previous observation, the Committee hopes that the Government will provide detailed information in its next report on progress made in extending social security to more municipalities so that all workers covered by the Convention throughout the national territory are guaranteed the benefits of sickness insurance, in accordance with Article 2 of the Convention.

#### Peru (ratification: 1945)

Article 2, paragraph 1, of the Convention. The Committee again requests the Government to provide detailed information on the measures taken in practice - following the adoption of Presidential Decree No. 022-86-SA - to ensure that the health services are extended throughout the national territory and are provided with the necessary infrastructure, so as to protect all the workers covered by the Convention.

\* \* \*

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

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

Chile (ratification: 1931)

See under Convention No. 24.

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

Colombia (ratification: 1933)

See under Convention No. 24.

Peru (ratification: 1945)

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

\* \* \*

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

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

Morocco (ratification: 1958)

The Committee notes that 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 the comments made by the Democratic Confederation of Labour and the General Union of Moroccan Workers which the Committee noted in its 1991 general observation, regarding in particular the following points:

Article 3, paragraph 2(1) and (2), of the Convention. The above organisations of workers state in their comments that the Government unilaterally fixes the minimum wages for different sectors without consulting the workers' organisations and that such a machinery as the Central Committee for wages and prices under Dahir of 31 October 1959 does not function in practice. Please indicate the method employed for consulting the interested parties and the means by which the employer and workers concerned are associated with the operation of the minimum wage fixing machinery under these provisions of the Convention.

Article 4, paragraph 1. The said comments also mention the increase of the cases of violation of minimum wages, referring to a study by the World Bank in 1978 showing that more than 60 per cent of enterprises accord wages less than the minimum wage. Please supply

information on measures taken to ensure that wages are not paid at less than the applicable minimum rate in accordance with this provision.

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

Angola (ratification: 1976)

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

For a number of years it has been drawing the Government's attention to the absence from national laws of provisions giving effect to Article 1, paragraph 1, of the Convention, which provides that any package or object of 1,000 kilograms (one metric ton) or more gross weight consigned for transport by sea or inland waterway shall have its gross weight plainly and durably marked upon it on the outside before it is loaded on a ship or vessel.

In the reports received in 1986 and 1987, the Government stated that measures would be taken to give effect to this Article of the Convention and that a draft text to that effect was under consideration.

In its latest reports, the Government repeats that the draft text in question is still under discussion. The Committee hopes that the Government will do everything in its power to ensure that the text in question is adopted in the very near future and that it will also ensure the application of the provision of paragraph 4 of Article 1, indicating on whom falls the obligation for having the weight marked.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: China, France, Hungary, Netherlands, Pakistan, Venezuela, Yugoslavia.

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

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

Austria (ratification: 1960)

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

Article 2, paragraph 2(c), of the Convention. In the comments it has been making for several years, the Committee has noted that some of the work done by prisoners is done in workshops managed by private undertakings inside the prisons under arrangements made with the prison authorities, who place prison labour at the disposal of such undertakings and remain responsible for their supervision from the security standpoint, while the private employees of the undertakings

concerned may direct the detainees' work with the approval of the prison authorities.

The Committee has pointed out that Article 2, paragraph 2(c), of the Convention not merely requires that prison work should be carried out under the supervision and control of a public authority but also makes it unlawful for a prisoner to be hired to or placed at the disposal of private companies, and that these provisions also apply to workshops managed by private undertakings inside the prisons.

In its latest report the Government, referring to its previous comments, reiterates its opinion that prisoners working in workshops or undertakings managed by private individuals, companies or associations inside the prison are in no way subject to the private entrepreneur's power of disposal. According to the Government, the prisoners working in such workshops are subject solely to the power of disposal of the prison administration, like those working in workshops which belong to the penitentiary institution. The Government considers that, in the absence of any power of disposal, there can be no question of prisoners being "placed at disposal" within the meaning of Article 2, paragraph 2(c), of the Convention and that this, in its turn, precludes any need for the prisoner's consent, which would be a requirement only in the event that the prisoner was to be subjected to an authority other than that resulting from conviction in a court of law, namely the prison authority. That applies only to prisoners on parole who are called upon to perform work outside the penitentiary establishment for an undertaking which does not belong to that establishment; such prisoners can be assigned to such work only with their consent.

According to the Government, the fact that there is no contractual relationship between the undertaking and the prisoner illustrates that this is a special case of public employment and that the entrepreneur has no power of disposal.

The Committee takes due note of these indications. It is bound to point out that Article 2, paragraph 2(c), of the Convention explicitly 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 the 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.

In its previous report, the Government said that negotiations to bring prisoners into the social and unemployment insurance schemes were in progress and that a gradual increase in remuneration for all prisoners, within budgetary possibilities, was contemplated, together with an increase in the deferred pay credited to the prisoner's account in order to meet his needs during the period after his release.

The Committee notes the information given by the Government in its latest report to the effect that a substantial increase in remuneration and the integration of prisoners in the unemployment insurance scheme are among the aims declared by the Government for the present legislature. Negotiations on the subject between the

ministries concerned have made progress, so that it is possible to envisage the realisation of these plans in the near future.

The Committee hopes that the Government will soon be in a position to report the adoption of these measures and of all arrangements made to ensure that the prisoners' formal consent is sought for work in workshops managed by private undertakings.

Bahrain (ratification: 1981)

In its previous comments, the Committee noted that under article 110 of the Maritime Code of 1982, if a contract of employment is made for a definite period which has expired during the voyage, such contract shall be extended by virtue of the law until the arrival of the ship in the nearest Bahrain port. The Committee commented on this provision because it restricted the right of crew members having served for an agreed definite period to terminate their employment and leave the ship at a foreign port. The Committee notes with interest that Legislative Decree No. 4 of 12 February 1991, a copy of which has been provided by the Government, completes article 110 of the Maritime Code by adding a paragraph which provides that seamen may leave the ship at the first port of arrival after expiry of the contract for a definite period, if they so request in writing.

Brazil (ratification: 1957)

In previous comments, the Committee referred to the observations presented in 1986 by the Latin American Central of Workers (CLAT) and the International Confederation of Free Trade Unions (ICFTU) alleging the existence of forced labour and debt bondage in certain regions of Brazil. The Committee also noted the difficulties which the Government stated it was encountering in detecting, preventing and repressing labour law violations, due to the vast dimensions of the national territory and the difficulty of reaching certain regions. The Committee also noted the efforts which the Government stated it was making to combat all forms of forced labour, and the "Termo de Compromisso" agreement signed by the Ministry of Labour, the Ministry of Reform and Agricultural Development, the National Confederation of Agriculture (CNA) and the National Confederation of Agricultural Workers (CONTAG), aiming to eradicate all forms of slave labour ("trabalho escravo").

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

The Committee notes the information supplied by the Government in the reports submitted in September 1990 and October 1991, to the effect that the above-mentioned "Termo Compromisso" is being reviewed and that the Government is pursuing its vigorous struggle against

forced labour together with the federal inspection bodies and the federal police, and is taking the necessary police, judicial and inspection measures.

The Committee takes note of the comments submitted by the Association of Labour Inspectors (AGITRA) in May and October 1991 concerning the application of Conventions Nos. 29 and 105, copies of which were sent to the Government in July and October 1991 so that it could make any comments it deemed appropriate.

The Committee also notes the comments submitted on the application of Conventions Nos. 29 and 105 by the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW) in November 1991 which were sent to the Government in November 1991.

The Committee notes that the Government has made no comments on the allegations made by the two organisations mentioned above.

The Committee notes that the allegations of the two trade union organisations concur and that they are amply documented with reports from national trade unions (trabalhadores rurais sem terra; Central Unica de Trabalhadores (CUT)), non-governmental organisations, churches and with numerous articles from the national and international press.

The allegations concern the situation of thousands of workers, including children and young persons, who are subjected to forced labour in various sectors of the rural economy and in mining.

Hiring, it is alleged, is conducted thousands of kilometres away from the place of work, on the basis of false promises regarding working conditions and wages, made by so-called "gatos", who oversee the estates, acting as labour contractors for the estate owners, and who are responsible for transport to the place of work. Generally, on arrival at the destination, wages turn out to be lower than promised and workers are usually charged for transport and makeshift accommodation. Because estates are so remote, the only source of food is the company store where prices are exorbitant and purchases are deducted from wages. In many cases food (a basket of food or a ready prepared meal) is given directly to the workers by the "gatos" instead of wages.

When they claim their pay, the workers discover that it has already been entirely spent, as the "debt" contracted for transport and food is higher than the wage. The "debt" increases as time goes by and workers have no alternative but to continue working to pay off a debt which their wages cannot meet, even though they work for over 12 hours a day. There is even less question of their being able to afford to return home or to their place of origin where many of them have left families. Workers who try to escape are pursued by gunmen who work for the estate and when they are captured they are returned to the estate and subjected to ill treatment (beating, whipping, injuries, mutilation, sexual abuse) and in many cases, arising even in death.

Both the trade union organisations refer to the difficulty of obtaining a precise idea of the extent of forced labour in Brazil, since many cases only come to light when the workers manage to escape and are brave enough to face up to possible reprisals, denounce the situation and testify. They indicate, however, that the practice of forced labour, known in Brazil as white slavery ("escravidade branca")



has been denounced on estates and in distilleries in various regions of the country since 1984, especially in the States of Para and Mato Grosso. According to AGITRA, between 1980 and 1991 3,144 cases came to light of persons subjected to forced labour on 32 estates in the south of Para. The annexes communicated by the above organisation contain a list of 56 estates in the south of Para on which cases of forced labour have been denounced. Nationwide, 8,886 cases have been counted; in 1991, 53 of these persons were murdered and four disappeared.

The IFPAAW refers in its comments to eight cases brought to its attention between January 1979 and June 1990, in four States: the Arizona estate (Renencao); Sao Luis Agropecuaria (Para); Santa Inés (Para); Espírito Santo (Para); Belauto (Para); Fazendas Reunidas Nossa Senhora de Fatima (Mato Grosso); Suia Missu (Mato Grosso); Fazenda Escondida (Mato Grosso).

AGITRA is also concerned at the fact that such occurrences are not confined to remote areas; a number of cases have been denounced in places near to the most developed parts of the country. It is alleged that in 1990, for example, the labour inspectorate noted that 200 families were working in conditions of slavery stripping the bark of acacia trees in Paquete, 100 kilometres away from Porto Alegre, capital of the State of Rio Grande do Sul, and that in Cidreira, 110 kilometres from Porto Alegre, 50 persons worked for three months without wages, receiving only food consisting of pasta and beans. In 1991, the Centre for the Protection of Human Rights reported that some 70 persons, including four children, were working in conditions of semi-slavery in the rural area of Paraibuna, 120 kilometres to the east of Sao Paulo.

The IFPAAW indicates in its observation that in the majority of these cases workers who had escaped or been released denounced the above situation to the competent authorities and reported the approximate number of workers remaining on the estates. On the Santa Inez estate, the police were able to free 43 workers but the owner of the estate was not arrested and those arrested were released rapidly. In other cases, either no further action was taken on the investigations requested or the persons responsible were not brought to trial, nor were the statutory sanctions applied, even in cases where persons were accused of having caused the death of certain workers.

### Child labour

The Committee notes the allegations concerning the forced labour of minors to the effect that on the Santa Inés estate (Para), when the police liberated the 43 workers mentioned above, it noted that 14 of them were minors of 14 to 18 years of age. In May 1991, the DRT (Divsao de Relacoes do Trabalho) noted the presence of minors of 15 years of age in the Cachoeira distillery in Rio Brilhante, who were working in deplorable conditions for up to 12 hours a day. It is also alleged that a group of parliamentarians observed, in the acacia-felling areas of the Tanac enterprise, in Encruzilhada do Soul (172 kilometres from Porto Alegre), that men, women, and children of barely ten years were working 12 hours a day in a relationship of



total dependence on the employer. The children work without wages in the hope of increasing the output of their parents so as to pay back the debt that binds their families to the employer.

The Committee notes the comments presented by the Human Rights Committee of the Legislative Assembly of the State of Rio Grande do Sul in a communication received by the ILO in November 1991, concerning the allegations submitted by AGITRA. The above Committee states that it confirms the veracity and accuracy of the allegations submitted by AGITRA concerning the existence of slave labour in Rio Grande do Sul, and the situation of extreme misery and complete dependence of the workers, which the Committee states it observed when it took part in certain investigations. It also affirms that the same situation exists in various municipalities of the State, and there is no perceptible wish on the part of the enterprises to reach a real solution to the problem.

The Committee notes that under articles 184 and 186 of the Federal Constitution, in the interests of society, real estate may be taken away from its owner if it is not fulfilling its social function, through, *inter alia*, implementation of the provisions governing labour relations. The Committee also notes sections 149, 197 and 207 of the Penal Code, which provide for penalties of imprisonment for those who: reduce a person to conditions similar to those of slavery (149); oblige a person through violence or serious threat, to exercise or not to exercise a craft, occupation, profession or skill, or to work or not to work for a given period (197); hire workers with the purpose of transferring them to another location in the national territory (207). The Committee also notes Act No. 8069 of 13 July 1990 (the Statute of Children and Young Persons) respecting the basic rights of young persons, which lays down, in addition to the right to life, health, freedom and education, the minimum age of admission to employment (14 years) and protection in employment.

The Committee notes that, according to the statistics provided by the Government concerning the investigations conducted and the number of persons tried for violating sections 149, 197 and 207 of the Penal Code, in 1990 and 1991 seven persons in the State of Para, three in Mato Grosso and eight in Espírito Santo were tried under section 149, and a total of 18 in the States of Paraíba, Alagoas, Mato Grosso, Mato Grosso do Sul and Para were tried under section 207.

The Committee observes that, according to the allegations mentioned above and the information supplied by the Government, there are serious deficiencies in the application of Conventions Nos. 29 and 105. The occurrences related involve serious violations of Convention No. 29 in that the alleged situation is one of complete subjection of thousands of workers who are unable to end an employment relationship which they entered against their will and who work in conditions which comply neither with what was agreed upon, nor with the provisions of the labour law of the country. Furthermore, they cannot terminate the relationship without the risk of being ill treated, tortured or even killed. In addition, such situations are not in conformity with Article 1(b) of Convention No. 105, which provides for the suppression of forced labour as a means of mobilising and using labour for purposes of economic development.

The Committee takes due note of the action undertaken by the Federal Government with a view to eradicating the problem raised in the allegations. However, the measures taken so far, although they are a first step, must be reinforced and lead to systematic action which is commensurate with the dimensions and gravity of the problem, if the latter is to be solved. In this connection, the Committee refers to its comments on the application of Conventions Nos. 81 and 95.

The Committee trusts that the Government will take the necessary measures to put an end to the practices whereby thousands of workers, including children and young persons, are subjected to forced labour. In the circumstances, it appears particularly necessary to give effect to Article 25 of the Convention which provides that the illegal exaction of forced or compulsory labour shall be punishable as a penal offence and it shall be an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee hopes that the Government will provide information on action undertaken at the federal level and in the various States, and that it will provide a copy of the judicial decisions handed down under the relevant provisions of the national legislation concerning persons accused of exacting forced labour, particularly in the cases mentioned by the trade union organisations in their comments, which have been communicated to the Government.

[The Government is asked to supply full particulars to the Conference at its 79th Session and to report in detail for the period ending 30 June 1992.]

#### Burundi (ratification: 1963)

1. In its previous comments the Committee referred to the provisions of two Ordinances introducing, on the one hand, obligations with regard to the conservation and utilisation of the soil and, on the other, the obligation to create and maintain minimum areas of food crops (Ordinances Nos. 710/275 and 710/276 of 25 October 1979, as amended by Presidential Decrees Nos. 100/143 and 100/144 of 30 May 1983).

The Committee had noted the Government's statements to the effect that these texts were of an exhortative character and that in practice the work covered by the texts in question was voluntary. The Committee had expressed the hope that measures would be adopted to make the voluntary nature of the provisions statutory.

The Committee notes the Government's statement that consultations with the government departments concerned have not led to a specific decision. The Committee wishes to point out in this connection that Ordinances Nos. 710/275 and 710/276 were adopted pursuant to Legislative Decree No. 1-22 of 24 July 1979 laying certain specific obligations on farmers. Consequently the legal obligations prescribed in those Ordinances are still fully valid. The Committee asks the Government to indicate what measures are contemplated to embody in legislation the voluntary nature of the work to which the aforementioned Ordinances relate.

2. In its previous comments the Committee observed that the texts on compulsory cultivation, portage and public works (Decree of 14 July 1952; Ordinance No. 21/86 of 10 July 1953; Decree of 10 May 1957) had not been formally repealed.

The Committee notes the Government's statement that the colonial character of the provisions complained of is beyond dispute. It also notes that according to the Government the texts in question are not in the codes and laws of Burundi, that this proves that they are no longer applied; and that they were probably repealed during the period preceding independence.

The Committee points out that, under section 1 of the Act of 29 June 1962, legislative texts issued before independence will remain applicable until expressly repealed.

The Government states further that the texts in question were replaced by Ordinances Nos. 710/275 and 710/276. The Committee has drawn attention above to the mandatory nature of these texts.

The Committee reminds the Government of the need to repeal the aforementioned texts expressly and unmistakably, and asks the Government to state what measures it intends to take in that connection.

3. In its previous comments the Committee noted that Legislative Decree No. 1/16 of 29 May 1979 establishes the obligation for all persons over 18 years of age to carry out community development work one half-day per week on pain of a one-month prison sentence. The Committee notes the Government's reiteration that the penalty described in section 5 of the Legislative Decree is to be abolished and that consultations with the government department concerned are continuing.

The Committee points out that Article 2, paragraph 1, of the Convention defines as forced or compulsory labour all work or service exacted "under the menace of any penalty". The Committee asks the Government to state what progress has been made in repealing section 5 of Legislative Decree No. 1/16 of 29 May 1979.

The Committee had also pointed out in its comments that under section 3 of Legislative Decree No. 1/16 and Decree of Application No. 100/79 of 29 May 1979 the role of the municipalities was limited to supervising the execution of the work according to the programme adopted at the regional level.

The Committee had reminded the Government of the criteria determining the limits of the exception provided for in Article 2, paragraph 2(e), of the Convention:

- the services must be "minor services", i.e. relate primarily to maintenance work and - in exceptional cases - to the erection of certain buildings intended to improve the social conditions of the population of the community itself (a small school, a medical consultation and treatment room, etc.);
- the services must be "communal services" performed "in the direct interest of the community", and not relate to the execution of works intended to benefit a wider group;
- the "members of the community" (i.e. the community which has to perform the services) or their "direct" representatives (e.g. the village council) must "have the right to be consulted in regard to the need for such services".

The Committee notes that the Government mentions contacts between the ministries concerned for the purpose of undertaking studies with a view to the revision of these texts in order to bring the law into conformity with the Convention.

The Committee asks the Government to supply information on the specific measures adopted or contemplated to ensure the direct participation of the populations concerned in the preparation of work programmes.

In its previous comments, the Committee referred to sections 340 and 341 of the Penal Code which sanctions vagrancy and begging by placing them at the disposal of the Government for one to five years during which the persons concerned are made to work in penal institutions.

The Committee notes the Government's statement that the provisions of the Penal Code have nothing to do with a general obligation to work, with penalties for non-compliance. The Government explains that, in the eyes of the Burundi legislator, it is mainly a matter of stemming the flight from the countryside in which many young people are leaving it for the urban centres where, failing to find work, they resort to begging and drift into crime. The Government stated in its previous reports that, as part of the campaign against the flight from the countryside, persons placed at the Government's disposal under sections 340 et seq. of the Penal Code were as a rule turned back to their locality of origin and, if they persisted, were placed in penitentiary establishments devoted to various activities. The Government states further that placement at its disposal is in principle a matter for the criminal courts and that no court has ever sentenced anyone for the offence of vagrancy or begging.

The Committee, however, noted that this might amount in practice to leaving the persons concerned no choice but to accept work within the limited range available in the rural areas on pain of finding themselves, when they moved away in search of work and failed to find it at the first attempt, subjected to a penalty including work in a penitentiary institution.

The Committee asks the Government to review the situation and to indicate what measures it has taken or intends to take to ensure that the provisions in question cannot be applied to persons who are simply out of work.

#### Cameroon (ratification: 1960)

The Committee notes the information communicated by the Government in its report. It has also taken note of the discussions held in the Conference Committee in 1990.

1. In its previous comments the Committee noted that the provisions of Act No. 73-4 of 9 July 1973 setting up the National Civic Service for Participation in Development were contrary to the Convention because they provided that work in the general interest throughout the public and private sectors could be imposed on citizens between 16 and 55 years of age for a period of 24 months, subject to imprisonment for two to three years in the event of refusal. The Government indicated that a change in the aforementioned Act was

planned and that in practice enrolment in the Service in question was entirely voluntary.

The Committee notes with interest the provisions of Decree No. 90/843 of 4 May 1990 abolishing the National Office of Participation in Development (NOPD), the text of which was communicated by the Government with its report. The Committee also notes the indications given by the Government in its report to the effect that Act No. 73-4 of 9 July 1973 instituting the Civic Service, for its part, has not yet been repealed. In that connection the Committee notes that the Government representative to the Conference Committee has stated that the Government had prepared a draft Act to bring the law into harmony with the practice of recruiting to the Civic Service on a voluntary basis. The Committee trusts that the necessary measures will soon be taken to bring the law into conformity with the Convention on that point and that the Government will communicate a copy of the provisions repealing or amending Act No. 73-4 of 1973.

2. In previous comments, the Committee noted that the provisions of Decree No. 73-774 of 11 December 1973 laying down penitentiary regulations permitted prison labour to be hired to private undertakings and individuals. It expressed the hope that the penitentiary legislation would be brought into conformity with Article 2, paragraph 2(c), of the Convention, which makes it unlawful for prison labour to be placed at the disposal of private individuals, companies or associations. The Committee notes the Government's statement in its report that no new provisions have been laid down. The Committee hopes that the Government will soon be able to report tangible progress achieved in the light of the more detailed explanations given in a request which it is addressing directly to the Government.

3. In its previous comments the Committee also drew the Government's attention to the need to take legislative or regulatory measures in order to restrict, in accordance with Article 2, paragraph 2(e), of the Convention, the scope of communal work that could be exacted pursuant to section 2, paragraph 5(e), of the Labour Code; it asked the Government to communicate copies of municipal decrees organising communal work in the general interest.

The Committee notes the information supplied by the Government representative to the Conference Committee to the effect that the nature of such communal work is defined in detail by municipal decrees; that it consists of minor services such as clearing land for certain ceremonies in the community, ordered by the municipal administrators and intended essentially to improve the life of the inhabitants, it being understood that large-scale projects were generally assigned to specialised undertakings in return for remuneration and that the other work necessary to the functioning of the community was done by municipal employees for pay. The Committee notes that the Government representative stated that she would try to send copies of municipal decrees organising such work in the general interest.

The Committee notes the information communicated by the Government in its latest report to the effect that, in the new Labour Code now in preparation, the expression "communal work in the general



interest" should be replaced by the expression "work in the general interest".

The Committee points out that, under Article 2, paragraph 2(e), of the Convention only "minor communal services" are exempt from the scope of the Convention. In this connection the Committee refers to paragraph 37 of its General Survey of 1979 on the Abolition of Forced Labour, which lists the criteria determining the limits of the exception prescribed in Article 2, paragraph 2(e), of the Convention:

- the services must be "minor services", i.e. relate primarily to maintenance work and - in exceptional cases - to the erection of certain buildings intended to improve the social conditions of the population of the community itself (a small school, a medical consultation and treatment room, etc.);
- the services must be "communal services" performed "in the direct interest of the community", and not relate to the execution of work intended to benefit a wider group;
- the "members of the community" (i.e. the community which has to perform the services) or their "direct" representatives (e.g. the village council) must "have the right to be consulted in regard to the need for such services".

The Committee is bound to note that the text of the draft Labour Code as indicated by the Government, rather than restricting the scope of the services that may be exacted to "minor communal services", would tend on the contrary to widen them to "work in the general interest".

The Committee hopes that the Government will re-examine the laws and the draft Labour Code in the light of the Convention and of the explanations given in paragraph 37 of the aforementioned General Survey in order to ensure compliance with the requirements of Article 2, paragraph 2(e), of the Convention. The Committee again asks the Government to communicate texts of municipal decrees organising communal work in the general interest.

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

The Committee has taken note of the discussion which took place in the Conference Committee in 1990. It notes that no report was since received from the Government. The Committee must therefore repeat its previous observation on the following points:

1. In its comments, the Committee has been referring for many years to the Government's statement that draft ordinances have been drawn up with a view to repealing Ordinance No. 66/004 of 8 January 1966 respecting the suppression of idleness (as amended by Ordinance No. 72/083 of 18 October 1972), section 11 of Ordinance No. 66/038 of 3 June 1966 respecting the supervision of the active population, and sections 2 and 6 of Ordinance No. 75/005 of 5 January 1975 making the performance of commercial, agricultural and pastoral activities compulsory. The Government indicated previously that, by reason of the economic and social effect of these texts, they were to be submitted to an expanded committee bringing together all the social partners with a view to assessing more accurately the effects of repealing them at the

social and economic level. It also stated that the texts of the ordinances adopted under the former regime have fallen into abeyance and are no longer applicable, although this does not mean that it is not necessary to repeal them formally.

The Committee noted the Government's repeated statements that it was aware of the need to bring its legislation and practice into conformity with the provisions of ratified international Conventions, and that draft legislation to this end had been submitted to the Assembly. The Committee expressed the hope that the Government would shortly be able to report that the necessary modifications had been adopted to ensure compliance with the Convention in this respect.

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

The Committee noted the Government's indications that these provisions were intended to supply a technical framework and basic services to farmers in order to increase their production, improve their standard of living, encourage them to expand the areas under cultivation and increase efforts in agricultural activities, since the freedom to work must not mean the freedom to do nothing. The Committee pointed out that the Convention authorises recourse to compulsory cultivation only for preventing famine or a food deficit, and always under the condition that the food or produce shall remain the property of the producers. It also pointed out that any work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily is incompatible with the Convention.

The Committee expressed the hope that on this point, too, the Government would be able to indicate shortly that the necessary amendments had been adopted to ensure compliance with the Convention.

The Committee notes the Government's indication to the Conference Committee that measures have been taken by the Department of Labour to encourage the competent authorities to accelerate the adoption of these texts.

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

#### Chad (ratification: 1960)

In comments it has been making for many years, the Committee has drawn attention to certain provisions that are contrary to the Convention and section 5 of the Labour Code, namely:

- section 260 bis of the General Code of Direct Taxes (Act No. 28-62 of 28 December 1962) empowering the authorities to exact labour for the recovery of taxes;

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

The Committee notes the Government's statement in its report that section 260 bis of the General Code of Direct Taxes is to be repealed by the Finance Act of 1992. It requests the Government to provide a copy of the Finance Act as adopted. The Committee also notes the Government's indications that, with regard to the other texts referred to above, it has been decided that the various ministerial departments are to be responsible for repealing or amending the texts falling within their competence.

The Committee once again expresses the hope that the Government will shortly be able to report that progress has been made in this respect and that it will provide a copy of the texts adopted.

#### Colombia (ratification: 1969)

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

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

The Committee notes that in its latest report the Government repeats that the obligation to work imposed on detainees is merely a written legal form which has no practical application, for despite the inmates' requests the Ministry of Justice and the Directorate of Prisons cannot respond satisfactorily for lack of means and human resources; nearly 11,000 more jobs would be needed.

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

Since section 233 of the Prison Code in its present form provides for compulsory labour for detainees in contradiction with the provisions of the Convention on this point and since, in practice, according to the Government's indications, detainees are not obliged to work, the Committee requests the Government to take the necessary measures to amend sections 233 and 269 of the Prison Code so that the national law may be brought formally into consistency with the



Convention and statutory effect be given to the practice referred to by the Government.

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

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

Among the types of labour included in the organisation of prison labour is labour hired to private enterprise (section 1(d)). Section 3(4) of the Decision provides that the organisation and type of remuneration for labour hired to private enterprise shall be specified in the relevant agreement, but that in no case may remuneration be less than 50 per cent of the minimum monthly wage fixed by the national Government.

The Committee observes that prisoners' work for private contractors may be compatible with the Convention in so far as the labour relationship may be regarded as a free employment relationship, that is to say if those concerned have freely given their consent, provided that there are appropriate safeguards such as the payment of normal wages, social security, consent of the trade unions, etc. However, the Committee notes that the national legislation does not at present contain any provision to the effect that prisoners' work for private enterprise must be based on a freely consented to relationship. Furthermore, if private enterprise is allowed to pay prisoners wages below the legal minimum wage, the relationship cannot be regarded as a free employment relationship.

The Committee notes that the Government's report contains no information about the questions raised.

With a view to being able to satisfy itself that the Convention is being applied, the Committee asks the Government to supply copies of the agreements that have been concluded between private undertakings and prison establishments. Similarly the Committee hopes that measures to bring the law into conformity with practice will be adopted shortly, embodying the principle that prisoners' work for private contractors must be based on a freely consented to employment relationship. The Committee asks the Government to report on the progress achieved to that end.

Côte d'Ivoire (ratification: 1960)

The Committee notes that the Government's report contains no information in reply to its previous comments. The Committee is therefore bound to repeat its previous observation concerning the following points:

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

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

The Committee noted previously that sections 25, 83 and 87 of Decree No. 69-189 provide for a system of semi-liberty whereby prisoners may work for private enterprises by virtue of a contract of employment freely concluded by them with the employer and under normal conditions relating to such matters as workmen's compensation; sections 24, 77 and 82, on the other hand, provide that prisoners may be placed at the disposal of private enterprises by virtue of a contract between the Minister of Justice and the enterprise.

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

The Committee asks the Government to indicate the measures that have been taken or are under consideration in this respect.

Cuba (ratification: 1953)

In its previous observation, the Committee asked the Government to comment on the allegations submitted in January 1991 by the International Confederation of Free Trade Unions (ICFTU) (transmitted

to the Government in February 1991) concerning the application of Conventions Nos. 29 and 105, in which the above organisation 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 to consider 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 work book. It 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" (informers guide) a document that is used by the state security police.

In its reply to the ICFTU's allegations, the Government states that voluntary work in Cuba is strictly voluntary and that no-one can be punished, harassed or deprived of any right for not participating in it. It states that voluntary work is recognised in the Constitution and the Labour Code not as a condition for the enjoyment of employment-related rights but as a means of forming the communist conscience of the people, of which it is the highest expression. It also refers to the various provisions in the national legislation on normal working hours and overtime.

With regard to resolution No. 590 of 1980 which establishes inclusion in the work book of the merits accumulated by the workers, the Government states that this practice reflects the encouragement and recognition given to individuals by all the workers and has nothing whatsoever to do with the rights guaranteed equally to all workers.

In this connection, the Committee observes that the ICFTU's allegations also refer to the burden, in terms of working hours, placed on the worker who has to perform voluntary labour in addition

to a normal day's work and the repercussions that voluntary work has on the periods of rest guaranteed to workers in the labour legislation.

As regards the allegations concerning the loss of rights, advantages or privileges for avoidance of voluntary labour, the Committee notes the information supplied by the Government and the Cuban Workers' Central (CTC), to the effect that work merits are not taken into account for access to a new job or a promotion, which are governed by resolution No. 18 of 1990.

The CTC also states that voluntary work in Cuba takes place in the strictest observance of the will of those performing it; it adds that the proposals on voluntary labour were adopted by a large majority in the various national congresses of the CTC. It indicates that voluntary labour is an effective means of speeding up both the completion of hospitals, schools, crèches, sports centres and workers' housing and economic and social development for the benefit of the masses. In addition, it quotes numerous examples of the achievements to which voluntary labour has contributed and refers to the incentives for workers with outstanding records in voluntary labour, which include the moral recognition of trade union assemblies, as well as days off in seaside resorts and rest houses, and holidays abroad.

The Committee notes the Government's indication in its report that resolution No. 590 of 1980 is in the process of being examined with a view to making the necessary amendments in the light of the particular circumstances of the country.

The Committee asks the Government to continue to report on the matter and to provide a copy of the amended text of resolution No. 590 of 1980.

The Committee requests the Government to provide information on any other measures taken to ensure that the system of voluntary labour is genuinely voluntary, taking into account the volume of work involved, effects on observance of labour standards, supervision of the workers' participation and consequences of refusal and, more generally, to ensure that the system of voluntary labour cannot lead to a person being obliged to work by indirect forms of coercion.

#### Czechoslovakia (ratification: 1957)

Further to its previous comments, the Committee notes with satisfaction that section 203 of the Penal Code under which a person who systematically avoided honest work and allowed himself to be maintained by somebody else or obtained his means of livelihood in some dishonest manner was liable to imprisonment for up to three years, was repealed by Act No. 175/1990 of 2 May 1990 to amend and supplement the Penal Code. The Committee notes that Act No. 150/1969 concerning lesser crimes was also repealed by Act No. 175/1990.

#### Gabon (ratification: 1960)

The Committee notes the Government's report. It also notes the observations submitted by the Confederation of Free Trade Unions of

Gabon (CGSL) concerning the application of the Convention, and the Government's reply to them.

Article 2, paragraph 2(c), of the Convention. 1. In its communication, the CGSL alleges that detainees awaiting trial, for the most part clandestine immigrants, are being subjected to occasional forced labour.

The Committee notes the Government's statement that what the CGSL alleges is neither current practice nor occasional practice. According to the Government, certain prisoners, to earn savings, voluntarily accept to do small jobs in their trade (masonry, carpentry, etc.) for private individuals who request such work and pay them for it. The Government also indicates that the same principle of remuneration applies to cases of imprisonment for debt, which are rare and are defined in the Penal Code and the Code of Civil Procedure; in such cases the persons concerned have already been sentenced and are therefore no longer awaiting trial; this remuneration enables prisoners to repay their debts more easily. The Government also refers to the prohibition on forced labour as set out in the Labour Code now in force and in the draft new Labour Code.

The Committee refers to paragraphs 89 to 96 of its General Survey of 1979 on the abolition of forced labour, and recalls that prison labour falls outside the scope of the Convention only if it is imposed as a consequence of a conviction pronounced in a court of law; persons who are in detention but who have not been convicted must not be obliged to perform labour. Only work carried out in conditions of a free employment relationship can be held not to be incompatible with this prohibition, which 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.

The Committee asks the Government to indicate how the formal consent of the persons concerned is guaranteed and to supply a copy of all the relevant provisions, along with detailed information on remuneration and social security coverage.

2. In earlier comments, the Committee noted that section 3 of Act No. 22/84 of 29 December 1984 to organise prison labour, provides that prison labour is compulsory for all convicted persons and includes, by virtue of section 4, both inside and outside work; the hiring of prisoners to private individuals or associations is allowed for outside work provided that prison labour does not compete with free labour. The Committee drew attention to the fact that Article 2, paragraph 2(c), forbids prison labour to be hired or placed at the disposal of private individuals, companies or associations.

The Government indicated previously that the question of the provisions of section 4 being contrary to the Convention was still being examined and that it would report the measures taken to the Committee. The Committee notes that the Government's last report contained no information on the subject.

The Committee once again recalls that Article 2, paragraph 2(c), of the Convention expressly forbids persons from whom labour is exacted as a consequence of a conviction from being placed at the disposal of individuals, companies or associations. As the Committee



states above, only work carried out in conditions of a free employment relationship can be held not to be incompatible with this prohibition. The Committee asks the Government to provide information on the measures adopted or under consideration to bring the legislation into conformity with the Convention on this point.

Germany (ratification: 1956)

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

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 enterprises 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 a 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 previous report, the Government stated its intention to fully implement 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 a private enterprise shall be subject to the consent of the prisoner. It also stated that a Bill to increase the remuneration of prisoners to 6 per cent of the average remuneration of workers and employees had been submitted to the Federal Parliament.

The Committee notes that in its last report the Government refers to the detailed information supplied previously to the effect that it intends in the long term to find a solution which would take greater account of the obligations deriving from Article 2, paragraph 2(c), of the Convention.

With regard in particular to the (gross) daily wage of prisoners, the Government states that it was increased between 1986 and 1990 from DM6.8 to DM7.78, which constitutes an increase of 13.4 per cent in 5 years, whereas the consumer price index only increased by 7.1 points over the same period. The rate of increase of the wages of prisoners is therefore higher than the increase in the cost of living over recent years.

The Government adds that the Bill to increase the remuneration of prisoners from 5 to 6 per cent of the average remuneration of workers and employees, which was introduced in Parliament during its eleventh legislative period, had not been definitively examined and was not submitted to Parliament during its twelfth period. The finances of the federal States are currently in a situation in which a new initiative by the federal Government would have little chance of

success. This also applies to the coverage of prisoners under the sickness and old-age insurance schemes. The Government states that it would react immediately to any indications in this respect from the federal States.

The Committee notes this information. The Committee is bound to recall its previous comments in which it indicated that Article 2, paragraph 2(c), of the Convention explicitly 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.

The Committee considers that, in the absence of the formal consent of prisoners engaged in work, and in view of their remuneration, which amounts to 5 or 6 per cent of the national average, as well as in the absence of sickness, old-age and survivors' insurance coverage, the situation of prisoners who are made available to private enterprises is not comparable with that of the partners to a free employment relationship.

The Committee trusts that the necessary measures to ensure the observance of the Convention, which was ratified over 30 years ago, in respect of prisoners, will be taken without any further delay and the Government will report the provisions that have been adopted.

#### Greece (ratification: 1952)

The Committee notes that the Government's report contains no new information in reply to its previous comments. The Committee is therefore bound to repeat its previous observation concerning the following points:

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 noted the information supplied by

the Government in its report for the period ending 30 June 1989 that the matter had been submitted to the new Government so that it could examine it and take the necessary legislative or other measures that were appropriate. The Committee once again drew 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.

#### India (ratification: 1954)

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 1991.

The Committee has also noted the report of a fact-finding committee appointed by Order of the Supreme Court dated 1 August 1991, in Writ Petition (Civil) No. 12125 of 1984.

The Committee 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 16th Session, July-August 1991.

#### Abolition of bonded labour

In its observation of 1991, the Committee examined in detail the situation in law and in practice concerning abolition of bonded labour.

1. Scope of legislation. The Committee recalled 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 that by virtue of the Bonded Labour System (Abolition) Act, No. 19 of 1976, the bonded labour system was abolished. The scope of this Act was clarified by a judgement of 16 December 1983 of the Supreme Court of India and by amendments adopted in 1985.

The Committee notes the Government's statement to the Conference Committee that, pursuant to the Supreme Court's judgement of 16 December 1983, a committee to investigate the issue of identifying bonded labourers had been instituted in the State of Haryana; it was in the process of finalising its report for submission to the Supreme Court.

The Committee hopes that the Government will provide full information on the findings and recommendations of the above-mentioned committee as well as a copy of its report.



2. Identification, freeing and rehabilitation of bonded labourers. Concerning the number of bonded labourers, the Committee previously referred to estimates according to which there were around 2 to 2.6 million bonded labourers in agriculture or the rural sector (1981, Gandhi Peace Foundation in cooperation with the National Labour Institute - estimates for 11 out of 21 states; 1979, Subcommittee of Bonded Labour set up by the Central Standing Committee on Rural Unorganised Labour) and the Commissioner for Scheduled Castes/Scheduled Tribes considered that bonded labour existed also in other areas such as quarrying, weaving, domestic service; the existence of bonded labour in quarrying and weaving was confirmed by the Supreme Court judgement of 1983 and by the Commissioner appointed by the court on working conditions of child labour in the carpets industry of Mirzapur.

The Committee notes that in the information submitted to the Conference Committee in 1991, the Government repeats its previous statements that it did not accept these estimates as it considers that the methodology applied is based on extrapolation of samples not adequately representative. The Government recalled its various statements that state governments were primarily responsible for identification and rehabilitation; that they had been advised to conduct surveys so as to identify all bonded labourers as early as possible; that on 31 March 1989, 242,532 bonded labourers had been identified and on 31 March 1990, 245,636 of which 218,028 had been rehabilitated.

The Committee notes that the Report of the Working Group on Contemporary Forms of Slavery refers to information submitted by Anti-Slavery International that debt bondage affected almost 5 million adults and 10 million children.

The Committee observes that a large and developed infrastructure for collection of statistics appears to exist in the country, as mentioned by the Government during the general debate in the Conference Committee in 1991. The Committee hopes that the central and state Governments will avail themselves of the existing means to accelerate the identification of bonded labourers.

Referring to the assurances given by the Government to the Conference Committee that updated information would be submitted on all issues and recalling also the Government's previous statement that active involvement of trade unions and social organisations is crucially important, the Committee hopes that the Government will report on measures taken and results achieved in the identification of bonded labour.

The Committee 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. In regard to the implementation of the 1976 Act, in particular in relation to these different programmes and initiatives, the Committee, taking into account extracts from the report by the Subcommittee of the Parliamentary Committee attached to the Ministry of Labour, noted a certain number of points on which it requested the Government to provide information.

(a) Identification and the role of vigilance committees. Referring to the reported slowness of the process of identification and to section 14 of the 1976 Act calling for the institution of vigilance committees, the Committee requested the Government to provide detailed information on the institution, the activities carried out and the results achieved by vigilance committees and the funds made available to the vigilance committees for this purpose as well as on steps taken by the central and the state Governments to support and promote their activities, and on any studies conducted to ascertain the real number of bonded labourers which remain to be identified and rehabilitated.

The Committee notes the Government's statement to the Conference Committee that vigilance committees played indeed an important role, and had been constituted in almost every state at the district and subdivisional level; those already set up were advising the district or subdivisional magistrates and were making efforts to identify, release and rehabilitate bonded labourers. The Government had not received any information from these committees or the state governments regarding problems encountered in the identification and rehabilitation process. The Government had also not taken any specific steps for providing incentives to the vigilance committees, nor had it received any proposals from the state governments in this regard. No further studies or surveys in this regard had been carried out. However, as and when complaints were received regarding the existence of bonded labourers, inquiries were made to ascertain the nature or existence of such a system and steps were taken to release and rehabilitate the labourers involved.

Noting also the Government's previous indications that state governments had been asked to ensure that vigilance committees are constituted, hold regular meetings and maintain and keep registers, the Committee hopes that the Government will provide the detailed information requested by the Committee in its 1991 comments, including reports and studies made.

(b) Scheme for the involvement of voluntary agencies. The Committee referred in its previous comments to the scheme for the involvement of voluntary agencies in the identification and rehabilitation of bonded labourers, launched in October 1987, under which voluntary agencies may be given subsidies (a lump sum as a managerial subsidy plus a certain sum for each release order in excess of 20 up to a specified maximum).

The Committee notes the Government's statement to the Conference Committee that so far there had been two cases of voluntary agencies who had come forward to claim the managerial subsidy for the year 1989-90. However, when such voluntary agencies brought to the notice of the Government the existence of bonded labourers in an area they covered, efforts were made to obtain the release of the persons involved and to rehabilitate them suitably.

The Committee requests the Government to indicate how many agencies it has contacted and what was their response, and in what way the Government takes steps to include the voluntary agencies operating in this field and seeks their assistance.

The Committee hopes that the Government will provide details on further cases and, as previously requested, 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. In its 1991 observation the Committee referred in detail to the centrally sponsored scheme for the rehabilitation of bonded labour and the amount and timing of the rehabilitation grant given to each bonded labourer. Since the timely rehabilitation of identified and freed bonded labourers is of the utmost importance, the Committee again 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 newly freed bonded labourers may fall back into bondage through lack of means of subsistence. The Committee hopes that the Government will indicate the categories of activities in which released bonded labourers are rehabilitated and the mechanism which exists for the follow-up of the rehabilitation measures.

(d) Integration of the scheme for rehabilitation with other anti-poverty schemes. The Committee referred previously to the problems encountered and shortcomings noted in relation to the application of the central Government's instructions for the integration of the scheme for rehabilitation of bonded labour with other anti-poverty programmes (such as the National Rural Employment Programme, the Rural Landless Employment Generation Programme, the Integrated Rural Development Programme).

Since the nature and the adequacy of rehabilitation is extremely important, the Committee again expresses the hope that the Government will 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 hopes that the Government will provide information on any steps taken to institute a commission entrusted with the monitoring of the implementation of the Bonded Labour (Abolition) Act, 1976.

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. The Committee had previously noted 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 noted the Government's indication in its report for the period ending June 1989 that the Union Labour Minister had 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 central Government had made it clear that if a fresh identification of bonded labour was not accompanied by the launching of prosecution against the bonded labour keeper, the Government might refuse to pay its share of money for rehabilitation. The Committee again 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, freeing and rehabilitation of bonded labour.

The Committee had previously 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 again expresses the hope that the Government will 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 again requests the Government to provide information including statistics on the number of prosecutions made and sanctions imposed and any other relevant information enabling the Committee to assess the efficiency of the enforcement mechanisms.

The Committee notes the information provided to the Working Group on Contemporary Forms of Slavery at its 16th Session by Anti-Slavery International that the committee to investigate the situation of bonded labour in Haryana had submitted its report to the Supreme Court in June 1991, and had identified more than 2,000 bonded labourers needing rehabilitation (whereas the Government of Haryana had denied the existence of bonded labour in the State). The Committee hopes that the Government will communicate a copy of this report.

#### Child bonded labour

4. In its previous comments the Committee took 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 noted 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) referred 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, stating that debt bondage, force or compulsion are common to almost all categories of child labour. 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 are connected with the trafficking and kidnapping of children, repression, absence of freedom of movement, beating, sex abuse, starvation, abnormal working hours, 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 and the situation in practice of bonded children is not improving: for instance in the Mirzapur Bhadohi belt, the carpet-weaving region in Uttar Pradesh, organised rackets of kidnapping or luring away of children and forcing them to weave are continuing. It is alleged that despite sanctions provided in the legislation, exploiters have no fear of being punished or penalised, since the enforcement machinery is weak and the indolence of the authorities, and collusion and corruption hamper identification, release and rehabilitation of the bonded children.

The Committee notes the report of the fact-finding committee appointed on 1 August 1991 by Order of the Supreme Court of India in Writ Petition (Civil) No. 12125 of 1984.

The inquiry was conducted in villages of the carpet-weaving region in the south-east of the State of Uttar Pradesh and in Bihar, in particular in the so-called Mirzapur-Bhadohi belt. It gives extensive descriptions of the bonded child labourers and their conditions and contains lists and photos of released children and certificates of release.

The Committee notes that the fact-finding committee has referred, *inter alia*, to the following cases:

- a large number of children, some in the age groups 6 to 9, work as bonded labourers in carpet-weaving looms;
- many are brought from the outside, especially from Bihar; sometimes children are lured by "gangs";
- when parents get advance money the contractor, weaver and keeper reduce the already very small wage of the child for fines, punishments, mistakes; the interest on the advanced sum continues growing and the child is forced to stay on;
- in many instances children are kept under close watch, not allowed to go outside or have contacts or talk to persons when in the street;
- children work long hours; some, when failing to work or making mistakes, are kept in closed rooms, sometimes tortured;
- children who tried to escape were beaten or even tortured;



- children who are exposed to hazards in particular cutting their fingers, are put forcibly to work after a small rest.

The fact-finding committee has made several proposals to improve the situation: compulsory registration of the looms; raids to liberate children if the infrastructure for rehabilitation is readily available; strict enforcement of the Abolition of Bonded Labour Act; measures to ensure that the amounts granted on release are used for effective rehabilitation and are not misappropriated.

The Committee hopes that the Government will provide a copy of the Supreme Court's decision in this case as well as information on action taken following the decision of the Court. The Committee, referring to Article 25 of the Convention, requests the Government to provide full information on measures adopted or contemplated to eradicate forced labour of children.

The Committee hopes that the Government, taking into consideration also the Committee's detailed comments of 1991 under the Convention, will make every effort to take the necessary action in the very near future.

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

#### Iraq (ratification: 1962)

The Committee notes the Government's report, which was received on 3 December 1991, and the report of June 1991 of the Committee set up by the Governing Body to consider the representation made under Article 24 of the Constitution in relation, inter alia, to Conventions Nos. 105 and 29.

The Committee is addressing a request directly to the Government on various points.

The Committee also refers to its comments under Convention No. 105.

#### Jamaica (ratification: 1962)

The Committee takes note of the Correctional Institution (Adult Correction Centre) Rules of 1991, a copy of which was supplied by the Government.

Further to its previous comments, the Committee notes that section 155(2) of the above Rules reproduces the provisions of section 228(2) of the Rules of 1947 governing employment in prisons, and provides that no inmate shall be employed in the service of, or for the private benefit of, any person, except with the authority of the Commissioner, or in pursuance of special rules.

The Committee refers to paragraphs 97 to 101 of its General Survey of 1979 on the abolition of forced labour, and is bound to repeat its request to the Government to provide the special rules governing this matter and to indicate the measures taken or envisaged to ensure that prisoners are not hired to or placed at the disposal of private individuals, companies, or associations unless such employment

is accepted voluntarily by the persons concerned, in which case there will be certain guarantees as regards the payment of wages, etc.

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 previously noted the Government's intention 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 was recognised that in law the aforementioned sections of the Act are not in full conformity with the Convention.

The Committee notes the Government's indication in its report that natural resources conservation work is today undertaken under the direct supervision of a Standing Presidential Commission on soil conservation (and also various agricultural extension officers in the Ministry of Agriculture) established in 1983 and that there exists a permanent cadre of government workers on full pay, in mostly forest areas, to conserve the natural resources. The Government adds that most of the country's conservation work is undertaken through the spirit of self-help commonly referred to as "Harambee effort".

The Committee notes that the Government reaffirms its intention to amend sections 13 to 18 of the Chief's Authority Act: the proposed amendment which was intended to be included in the Employment Act was rejected, but discussions have been reopened with the Office of the President (which administers the Chief's Authority Act), the Attorney-General's Office and the Law Reform Commission and the Ministry of Labour has stressed the need to bring the various provisions of the country's national law as well as practice into conformity with the Convention. The Government adds that a situation where the local chiefs find it necessary to resort to their powers under sections 13 to 18 of the Chief's Authority Act hardly occurs.

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

The Committee requests the Government to provide a copy of the provisions governing the Presidential Commission on soil conservation, any report established on efforts made and results achieved in soil conservation, as well as information on the organisation of and results achieved in soil conservation through "Harambee effort".

Liberia

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

The Committee 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 Chiers. 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)

1. In the 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 provisions, 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 notes the information supplied by the Government in its report, and in particular the reports of the national committee set up to examine international labour Conventions and Recommendations, which considers that there is no disparity between the above texts and the Convention.

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 above provisions of the Act of 1962 and the Royal Decree of 1955 are contrary to the Convention.

2. The Committee has observed for several years that the Government's report contains no information in reply to the general direct request of 1981, in which the Committee referred to paragraphs 67 to 73 of its 1979 General Survey, concerning restrictions on the freedom of workers to leave their employment. It observed that, in a number of countries, the conditions of service for 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 Convention 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 their freedom to leave the service on their own initiative within a reasonable period, either at specified intervals or with previous notice.

#### Madagascar (ratification: 1960)

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

1. Article 2, paragraph 2(c), of the Convention. In its previous comments, the Committee referred to the provisions of Decree No. 59-121 of 27 October 1959 (amended by a Decree of 6 March 1963) to establish the general organisation of the prison services, under which prison labour may be hired to private undertakings and prison work may be imposed on persons detained pending trial. The Committee noted the Government's statements that the hiring of prison labour to private individuals have been abolished by repeated circulars and that persons awaiting trial are no longer forced to perform prison work, following comments by the Committee of Experts. It also noted that the revision of Decree No. 59-121 was under study.

The Committee noted the indications communicated by the Government in its report for the period ending 30 June 1989, to the effect that Decree No. 59-121 had not yet been amended. It expresses again the hope that it will be amended in the near future in order to bring the law into conformity with the Convention on this essential point.

2. In earlier comments, the Committee referred to Act No. 68-018 of 6 December 1968 and to Ordinance No. 78-002 of 16 February 1978 respecting the general principles of national service, which define national service as the compulsory participation of all Malagasies in national defence and in the economic and social development of the country. It also noted

the provisions of section 8 of Ordinance No. 78-003 of 6 March 1978 establishing the conditions of service of staff liable to national service obligations on the active and reserve lists, under which members of the armed forces performing their service outside the armed forces are referred to by their functions (teachers, doctors, telegraphists, etc.) followed by the term "national service". Lastly, it noted the various texts that either referred to the powers of the military committee for development with regard to work in support of the local communities, or laid down the procedure for the incorporation in national service of young school-leavers and recruits of a particular age group, or changed the name of the units responsible for development (development forces).

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

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

The Committee asked the Government to indicate the measures taken or under consideration to bring the national legislation into line with the provisions.

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

#### Morocco (ratification: 1957)

The Committee notes that the Government has not supplied any report. It also notes that the Government has not supplied a reply to the observations made by the Democratic Confederation of Workers (CDT) and the General Union of Workers of Morocco (UGTM) in March 1991 concerning the application of the Convention.

The Committee must therefore repeat its previous observation on the following points:

1. Article 25 of the Convention. In the comments it has been making for many years, the Committee has referred to the absence from the national laws 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(a). The Committee noted the information provided by the Government concerning the provisions under which military recruits may be assigned to work in the general interest 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.

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 were within the limits of Article 2, paragraph 2(d), that was not necessarily the case for others (for example, public transport or the installation or maintenance of public services, other than those essential for the life of the nation, which are also covered by the Bill).

The Committee notes that, in the observations they have made, CDT and UGTM regret that these provisions are still in force and have been applied in strikes.

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.

The Committee hopes that the Government will reply to the observations of CDT and UGTM.

The Committee hopes that the Government will take the necessary measures to bring the national legislation into conformity with the Convention.

Myanmar (ratification: 1955)

The Committee notes that no report was received from the Government. The Committee must therefore repeat its previous observation on the following points:

The Committee had noted 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 indicated 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 contained detailed and specific indications to back these allegations.

The Committee again expresses the hope 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.

Netherlands (ratification: 1933)

The Committee notes the information supplied by the Government in its report as well as the observations made by the Confederation of the Netherlands Trade Union Movement (FNV) on the application of the Convention.

In previous comments the Committee referred to section 6 of the Extraordinary (Employment Relations) Decree, 1945, under which a worker is required to obtain approval for the termination of his employment.

The Committee notes the Government's statement in its report that a Bill amending the legislation on termination of employment was presented to Parliament on 15 March 1990 and was to be examined by the Second Chamber of Parliament at the end of 1991. The Bill repeals from Article 6 of the Extraordinary (Employment Relations) Decree the requirement for an employee to obtain approval by the director of the

regional employment office for termination of employment. The Committee notes that in its comments the FNV indicates its agreement with the proposed amendment.

The Committee hopes that the amendment will soon be adopted and that the Government will provide a copy of the Decree as modified. The Committee hopes that, pending the required legislative amendment, the Government will use its administrative powers to ensure that the regional employment offices issue the requisite permits in all cases where workers want to leave their employment upon the expiration of the appropriate notice.

#### Pakistan (ratification: 1957)

The Committee notes the information provided by the Government in its report and the discussion which took place in the Conference Committee in 1991. The Committee also notes the observations made by the Pakistan National Federation of Trade Unions on the application of the Convention.

Bonded labour. 1. In previous comments the Committee referred to the alleged use of bonded labour by contractors known as "Kharkars" in the construction of dams and irrigation tunnels and noted that an ILO report referred to the employment of illegally bonded children in "Kharkar" camps working at night in irrigation tunnels in remote rural areas.

The Committee also noted that the report by 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 referred to information set out in the report of the South Asian seminar on Child Servitude (1989) according to which large-scale exploitation of bonded labourers was to be found in brickmaking, carpet weaving, fish cleaning and packing, shoemaking, bidi making, auto repair, agriculture, mining, quarrying and stone-crushing industries.

The Committee noted from a further report submitted to the Working Group by the President of the Bonded Liberation Front of Pakistan (also President of the Brick Kiln Labourers Front - Bhatta Mazdoor Mahaz) that its organisation 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 nor in the census (hence no right to vote) nor in the national registration (hence no identity card).

The Committee had noted that during the discussion in the Working Group the observer of 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.

The Committee had taken note of three decisions 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) by which for the first time brick kiln labourers were



considered as bonded labourers; the interim Order of 23 November 1988 and the Final Bench Order of 22 March 1989.

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 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.

The Committee notes that the Government's report contains no information on any measures taken to eradicate forced and bonded labour in practice, pursuant to the Orders by the Supreme Court.

2. The Committee has taken note of the report by the Working Group on Contemporary Forms of Slavery at its 16th Session, 1991, which refers to information submitted by Anti-Slavery International which indicated that although child labour was unlawful in Pakistan, 50,000 children aged between four and 12 worked in small carpet-weaving workshops subsidised by the State, while the private sector employed some 500,000 children; in Karachi and Hyderabad, 50 per cent of those children died of overwork and illness. It also stated that the status of bonded workers had grown worse after the arrival of adult and child Afghan refugees, reportedly numbering over half a million who were prepared to work as bonded labourers. Attention was also drawn to the practice of sale and purchase of bonded labourers in agriculture in Mardam and Surabi, the victims being called "Gehna Makheelooq" (mortgaged creatures).

The Committee hopes that the Government will provide information in relation to these allegations, and on any measures taken or envisaged in this regard.

3. While noting that the Government's report contains no information on the practical application of the Convention in relation to forced and bonded labour, the Committee notes with interest the Government's information in its report for the period ending June 1991 that a Bill to provide for abolition of the bonded labour system was submitted to Parliament.

The Committee notes that under section 4(1) of the Bill, the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged from any obligation to render any bonded labour; no person shall make any advance (peshgi) under or in pursuance of the bonded labour system or compel any person to render any bonded labour or other form of forced labour (section 4).

The Bill renders void and inoperative any custom or tradition or practice of any contract, agreement or other instrument, whether entered into or executed before or after the commencement of the Act, by virtue of which any person, or any member of his family, is required to do any work or render any service as a bonded labourer (section 5). Every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before commencement of the Act, shall stand extinguished. No suit or other proceeding shall lie in any civil court, tribunal or before any other authority for the recovery of any bonded debt or any part thereof (section 6).

The Bill provides for special enforcement measures, including the setting up of vigilance committees at district level consisting of elected representatives of the area, representatives of the district administration, bar associations, press, recognised social services and labour departments of federal and provincial governments. Their functions consist in advising the district administration on matters relating to the effective implementation of the law and in a proper manner, help in the rehabilitation of the freed bonded labourers, keep an eye on the working of the law and provide the bonded labourers assistance necessary to achieve the objectives of the law (section 15).

Compulsion to render bonded labour or extracting bonded labour under the bonded labour system is punishable with imprisonment from two to five years or with a fine of 50,000 rupees or with both (sections 11 and 12).

The Committee has taken note of information according to which the Bill was enacted by the National Assembly in February 1992.

The Committee hopes that the Government will provide a copy of the Act when assented by the President as well as detailed information on steps taken or envisaged to apply the Act in practice.

4. The Committee has noted with interest Act No. V of 1991 to prohibit the employment of children in certain occupations and to regulate the conditions of work of children to which the Government representative referred in his statement to the Conference Committee in 1991.

Restrictions on termination of employment. 5. 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 in its report for the period ending June 1989, as well as to the Conference Committee in 1989 and 1990, 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 had noted the Government's indication to the Conference Committee in 1991 and in its report that the Act was being so amended.



The Committee firmly hopes that the necessary measures will soon be adopted to bring the Pakistan Essential Services (Maintenance) Act, 1952, as well as the West Pakistan Essential Services (Maintenance) Act, 1958, into conformity with the Convention, and that the Government will indicate the action taken.

[The Government is requested to provide full particulars to the Conference at its 79th Session and to report in detail for the period ending 30 June 1992.]

Panama (ratification: 1966)

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

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

With regard to section 878 of the Administrative Code, the Committee notes that, according to the Government's report, the Ministry of Labour and Social Welfare has prepared a preliminary draft of a Bill to repeal section 878(1) and sections 882 and 887 of the Administrative Code and to amend sections 892 and 1715 of the same Code. The Committee also notes that its comments also refer to section 878(3).

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

The Committee notes from the Government's report that the above Act is still in force. The Committee asks the Government to take the necessary measures to ensure that, in accordance with the Convention, compulsory labour cannot be imposed by administrative authorities or other non-judicial bodies.

Since the above matters have been the subject of its comments for many years, the Committee hopes that the draft Bill will be adopted as rapidly as possible and that the Government will provide a copy of it as soon as it has been adopted.

The Committee asks the Government to indicate whether other provisions of the Administrative Code empower non-judicial bodies to impose penalties involving compulsory labour.

Paraguay (ratification: 1967)

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

The Committee noted the Bill which was drafted in 1977 to amend section 39 of Act No. 210, under which detainees who have not been sentenced and those convicted of political offences who were not guilty of acts of violence will be exempted from the obligation to work.

The Committee notes that, according to the Government's report, the above Bill has not yet been adopted.

The Committee hopes that the Government will take the necessary measures without delay to ensure that the Convention is observed in this respect and that it will supply information in its next report on the progress achieved in this connection.

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

Peru (ratification: 1960)

In its previous observation the Committee noted the comments submitted in April 1990 by the National Federation of Miners, Metalworkers and Iron and Steel Workers of Peru (FNTMMSP) in which the above organisation alleged the existence of situations that infringed the Convention. These comments were communicated to the Government in April 1990 so that it could make any comments it deemed appropriate.

1. Workers in the Madre de Dios gold-mines and washeries

The FNTMMSP refers 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 (hence the term "noventeros" (90-day workers) for these 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 FNTMMSP 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, rabies and uta (a skin disease).

The Committee notes that in the report communicated in May 1991, the Government states that a multisectoral committee was set up by Ministerial Resolution No. 275-90-PCM of 26 June 1990 to investigate the situation of workers employed by licensed enterprises in gold-mines and washeries in Madre de Dios. The Government also states

that the rain forest area is difficult to reach and that once the multisectoral committee is on the spot the inspection programmes will be carried out and rules will be prepared to protect workers employed in the washeries.

The Committee asks the Government to supply the report of the multisectoral committee responsible for investigating the situation of workers in the Madre de Dios gold washeries, as well as the inspection programmes and the draft rules, referred to in the report, to ensure the protection of the workers concerned.

The Committee hopes that the Government will also inform it of any other measures taken or envisaged to ensure that practical effect is given to the Convention.

2. Unremunerated work by children in chestnut-peeling enterprises in Puerto Maldonado

The Committee also noted the allegations of the FNTMSP concerning the situation in the chestnut-peeling enterprises in Puerto Maldonado, according to which hundreds of children work alongside their mothers in these enterprises 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 number of barrels of chestnuts that are required daily.

The Committee notes that the reports sent in May and November of 1991 contain no information on this matter.

The Committee asks the Government to provide information on the measures taken or envisaged to prevent children from being indirectly compelled to work, in conditions of exploitation which bear no resemblance to a free employment relationship, and to report on progress made in this respect.

3. Indigenous communities in Atalaya

In earlier comments the Committee asked 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 noted that, according to the conclusions of the final report of the multisectoral committee (created by Resolution 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 also took 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 noted allegations of cases illustrating the above situation.

The Committee notes that the Government's reports contain no information on this matter.

The Committee asks the Government to provide a copy of the final report of the multisectoral committee (set up by Resolution No. 083-88-PCM) on the situation of the indigenous communities of Atalaya and to inform it of the measures taken or envisaged to secure observance of the Convention in practice.

The Committee notes that, according to information in its report, the Government has asked the Peruvian Indian Institute for information on the conditions of employment of persons working, in practice, under the system known as "enganche" in rural areas and in the gold washeries in the Madre de Dios province.

The Committee asks the Government to transmit the information compiled by the Peruvian Indian Institute on this subject.

[The Committee asks the Government to supply full particulars to the Conference at its 79th Session and to report in detail for the period ending 30 June 1992.]

#### Romania (ratification: 1957)

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

1. Referring to its previous comments, the Committee notes with interest that Decree No. 153 of 24 March 1970 under which categories of persons with a parasitic or anarchical way of life are liable to criminal penalties has been repealed by Act No. 61 of 27 September 1991 to punish acts in breach of the rules of social cohabitation, of order and of the public peace.

2. The Committee has examined the new Constitution adopted by referendum on 8 December 1991. The Committee notes that, pursuant to section 38 the choice of an occupation and workplace is free and that forced labour is prohibited by section 39, paragraph 1.

The Committee is addressing a request directly to the Government concerning certain exceptions to the principle of the prohibition of forced labour which appear in section 39, paragraph 2.

3. In its previous comments, the Committee referred to Act No. 24/1976 making it compulsory for persons out of work to register with the Directorate of Labour or its regional offices with a view to being placed in employment; it asked the Government to provide information on all measures taken or contemplated to ensure that the provisions of the Act could not be used in practice as a means of forcing people to work.

The Committee notes the information given by the Government in its report concerning the constitutional provisions on the free choice of an occupation and workplace and concerning the priority given in domestic law to the provisions of the covenants and treaties on human rights (sections 37 and 20).

The Committee has also taken note of the provisions of Act No. 1 of 7 January 1991 providing for the social welfare and occupational reintegration of the unemployed. The Committee points out that the

Government stated previously that Act No. 24/1976 would be wholly or partly repealed when the Act on the social welfare of workers was adopted. The Committee observes that Act No. 1 of 1991 did not formally repeal Act No. 24/1976.

Noting that, under section 150 of the Constitution, the Legislative Council is called upon to examine the conformity of legislation with the Constitution and to make appropriate proposals, the Committee asks the Government to supply information on the steps taken or contemplated to repeal the provisions of Act No. 24/1976. The Committee hopes that the Government will send a copy of any provisions adopted to that effect.

4. In its previous comments the Committee noted that, under section 15, subsection 3, of Decree No. 93 of 28 March 1983 of the Council of State to approve the statutes of socialist organisations in agriculture, the withdrawal of a member of a cooperative required the approval of the General Assembly; it asked the Government to indicate the practical consequences of refusal by the Assembly to approve such a withdrawal.

The Committee notes the provisions of Act No. 37 of 20 February 1991 on land tenure, to which the Government refers in its report: an Act which reorganises the system of property, in particular by reintroducing the regime of private property, specifically in favour of members of agricultural cooperatives.

Recalling also that the Government stated previously that Decree No. 93/1983 had fallen into abeyance, the Committee hopes that the Government will repeal Decree No. 93/1989 in order to safeguard the legal coherence of the national laws and bring them into conformity on this point with the Convention and the practice previously mentioned.

#### Sierra Leone (ratification: 1961)

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

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

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

Singapore (ratification: 1965)

The Committee notes the detailed explanations supplied by the Government in its report in response to the Committee's previous comments. The Committee had noted that the Destitute Persons Act, 1989, repeated without change some provisions of sections on which it had been commenting for several years. Under sections 3 and 16 of the new Act, any indigent person may be required, subject to penal sanctions, to reside in a Welfare Home, and under section 13 of the same Act any person resident in such a Home may be required to engage in any suitable work.

The Committee notes in this connection that, according to the Government, Welfare Homes are meant for the rehabilitation of destitute persons who cannot fend for themselves, and that they are not penal institutions. The Government states that it is not mandatory for residents in such Homes to work. Moreover, work in such Homes is intended either to prepare the person concerned for employment, in which case the salary and working conditions prevailing in the market apply to work done outside the Home, or as a contribution, for a few hours a day, to maintenance in the Home.

The Government explains that the Destitute Persons Act is designed to provide shelter for homeless persons and those without means of subsistence. In August 1991 three Welfare Homes were housing 1,431 residents, 433 of whom were participating in the Home Employment Programme and 221 in the Day Release Programme.

While appreciative of the Government's efforts to assist the persons concerned, the Committee notes that the terms of the Act are highly coercive; it points out that compliance with the Convention requires that the admittance of destitute persons to a Welfare Home and their stay therein should be subject to their consent and that any work in such Homes should be done voluntarily both de jure and de facto.

The Committee hopes that the necessary measures will be taken to bring the law into conformity with the Convention; it asks the Government to continue supplying detailed information on the practical application of the provisions concerning Welfare Homes.

Spain (ratification: 1932)

In its previous comments, the Committee noted the observations made by the Trade Union Confederation of Workers' Committees (CC.OO.) concerning the application of the Convention, according to which prisoners are not guaranteed the conditions of employment set out in agreements as regards working hours, remuneration and benefits. The CC.OO. also indicated that the conditions to which prisoners are subject as regards social security are not the same as those for other workers.

The Committee notes that the above organisation repeated its allegations in comments that were transmitted by the Government in its report received in November 1991.

The Committee also noted that the Prison Regulations (Royal Decree No. 1201/81) do not establish clearly that the free consent of convicts is required for them to work in private enterprises.

So that it can ascertain the current situation in practice, the Committee requested the Government to provide copies of agreements that have been signed between prisons and private enterprises, as well as copies 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 notes the detailed information supplied by the Government on the various systems under which work is carried out in prisons.

The Committee notes that, according to the Government, in practice the voluntary nature of work performed by convicts for private enterprises does not raise difficulties, in view of the fact that work under an open system is greatly sought after by prisoners and, moreover, is comparable with the normal employment relationship in terms of remuneration and social security. The Government points out that productive employment is governed by the labour legislation (sections 185(1)(c), 185(2), 186(1), 189 and 191 of Royal Decree No. 1201/81), which implies that it is performed on a voluntary basis and that it is governed by the specific provisions contained in the Regulations.

The Committee takes due note of these statements and requests the Government to supply copies of contracts that have been concluded between private enterprises and prisoners, whether or not they have been concluded through the prison management.

The Committee notes that, under the fifth paragraph of the model collaboration contract between the independent body "trabajos penitenciarios" and private enterprises, which was supplied by the Government, the "minimum inter-sectoral wage shall be determined when the contract is concluded in accordance with the standards laid down by the independent body 'trabajos penitenciarios'".

The Committee requests the Government to supply information on the standards laid down by the independent body "trabajos penitenciarios" for the determination of the inter-sectoral minimum wage and to indicate the wage levels actually paid under the contracts in question.

#### Sri Lanka (ratification: 1950)

The Committee has taken note of the observations by the Ceylon Workers' Congress on the application of the Convention. The Committee notes that no report has been received from the Government.

1. In its previous comments the Committee referred to the provisions of the Essential Public Services Act, No. 61 of 1979, and noted that under section 2 of the Act the President may declare services provided by certain government departments, public corporations, local authorities or cooperative societies to be



essential public services. During the continuance in force of an order made under the Act, any person employed in such a service who fails or refuses to attend his place of work or any other place to which he may be directed, or fails or refuses to perform work, or fails to perform it within the specified time-limits, or in any manner impedes, obstructs, delays or restricts the carrying on of that service, or impedes, obstructs, prevents, incites or encourages any other person employed in such work from attending or leaving his place of work, prevents any other person from accepting employment in or in connection with the carrying on of that service, is guilty of an offence.

The Committee noted the Government's indication in its report for the period ending June 1989 that the Essential Public Services Act seeks to ensure the maintenance of essential services such as water supply, electricity, health services, in emergency situations and does not prevent workers coming under the Act from leaving their employment.

The Committee referred to the explanations provided in paragraphs 67 to 73 of its 1979 General Survey on the Abolition of Forced Labour where it indicated that workers may be prevented from leaving their employment in emergency situations within the meaning of Article 2, paragraph 2(d), of the Convention, i.e. any circumstance that would endanger the existence or the well-being of the whole or part of the population. The Committee pointed out however that even regarding employment in essential services there is no basis in the Convention for depriving workers of the right to terminate their employment by giving notice of reasonable length. The Committee notes the comments made by the Ceylon Workers' Congress according to which once a service has been declared an essential service the failure to turn up for work when requested to do so would amount to a punishable offence. The Committee requests once more the Government to indicate the measures taken or contemplated to ensure that persons governed by the Act can resign their service by giving notice of reasonable length.

2. In previous comments, the Committee noted that under the Compulsory Public Service Act, No. 70 of 1961, any graduate to whom the Act applies shall be under an obligation to perform compulsory public service (section 3(1)) for a period of normally up to five years (section 4(1)(c)), subject to a penalty of a fine payable every day during which he fails to discharge that obligation (section 4(5)). The Government indicated previously that the Ministry of Health had decided not to implement the Compulsory Public Service Act in respect of medical officers and that in regard to other services the provisions of the Act were not being implemented either. The Committee had noted that according to comments by the Ceylon Workers' Congress on the application of the Convention, the implementation of the Act, which was still in operation, had generally been confined to medical graduates, engineers, and science graduates, and that any graduate who failed to comply with the discharge of his obligation under the Act was liable to a fine of Rs.150 for each day he continued to commit the offence.

In its report for the period ending June 1989 the Government indicated that the decision of the Ministry of Health not to apply the Act had not been modified and that although the Act was still in the Statute Book, no enforcement of the provisions of the Act had come to



the Government's notice. The Committee notes that the Ceylon Workers' Congress states that the Act has not been amended.

Referring to the explanations provided in paragraphs 55 to 62 of its above-mentioned General Survey, the Committee hopes that the law will soon be brought into conformity with the Convention, and that the Government will supply information on measures taken or contemplated to amend or repeal the Compulsory Public Service Act accordingly. Pending the required legislative action, the Committee requests the Government to continue to provide information on the application of the Act.

3. The Committee notes the renewed comments made by the Ceylon Workers' Congress that Part II of the Public Security Ordinance No. 25 of 1947 is still in force and that under section 5(1) of the Ordinance the President has published a series of regulations empowering officials to require any person to do any work or render any personal service under the menace of penalties. The Committee again requests the Government to provide a copy of the emergency regulations and requisition orders governing these matters.

4. Article 25 of the Convention. The Committee has previously taken note of the discussion in the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fourteenth session, 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, set out in the report on the South Asian Seminar on Child Servitude held in June-July 1989 which was attended by representatives of non-governmental organisations from five countries. In relation to Sri Lanka the report refers to child labour exploitation in domestic service, shops, private coaches, tourist industry and fishing camps; it is alleged, inter alia, that small boys were kidnapped to be used as labour in "Waaduyas" fishing camps where they were forced to work up to 17 hours a day.

The Committee noted that under article 27 paragraph 13 of the Constitution of Sri Lanka the State shall promote with special care the interests of the children and youth so as to ensure their full development - physical, mental, moral, religious and social - and to protect them from exploitation and discrimination and that a number of laws had been enacted to protect children and restrict their employment such as the Employment of Women, Young Persons and Children Act No. 47 of 1956 and the Children and Young Persons Ordinance (1959). The Committee noted however that it was alleged in the above-mentioned report that protective laws were not adequately respected and enforced and that the main reason for the abuse of child labour was the lack of deterrent punishments.

The Committee had also noted observations made by the Ceylon Workers' Congress that slavery had been abolished by the Abolition of Slavery Ordinance No. 20 of 1844, that sections 361 and 362 of the Penal Code prohibit buying or disposing of any person as a slave, and that there existed no other provisions providing for penal sanctions for the exaction of forced labour.

The Committee notes the indication by the Ceylon Workers' Congress in its latest observations that child labour is a matter of concern, that enforcement of laws prohibiting employment of children

gives rise to problems and is characterised by inadequacy of enforcement staff and non-availability of evidence. Many children are employed in domestic service where proof of violation is difficult.

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 again expresses the hope that the Government will provide full information on the allegations referred to above including information on labour inspections carried out, complaints on child abuse received, on prosecutions undertaken, penalties imposed and copies of court decisions, as well as on any measures adopted or contemplated to eradicate forced labour of children.

Sudan (ratification: 1957)

The Committee notes that the Government's report has not been received. It notes that the 1985 Constitution has been suspended and that the state of emergency is still in force, and it refers to its observation under Convention No. 105.

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

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

A representative of the Government stated to the Conference Committee in June 1989 that in his country any form of exploitation or forced labour was prohibited by law.

The Committee notes that the report of the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities (document E/CN.4/Sub.2/1991/41 of 19 August 1991) refers to information concerning children kept in slavery and used as domestic servants.

The Committee asks the Government to supply information on the measures taken pursuant to the provisions of the Penal Code to punish recourse to forced labour. The Government is asked to indicate in particular the number of cases in which persons have been prosecuted or punished for the exaction of forced labour in recent years and the penalties imposed on those found guilty.

The Committee hopes that the Government will do everything in its power to take the necessary measures to ensure full compliance with the provisions of the Convention.

2. The Government referred in its previous report to sections 311 to 313 of the Penal Code of 1983 prescribing penalties for recourse to forced labour.

The Committee has been informed that a new Penal Code was promulgated in 1991. It asks the Government to supply the text thereof.

United Republic of Tanzania (ratification: 1962)

The Committee notes the Government's report and the discussion which took place in the Conference Committee in 1991.

For a number of years the Committee has been commenting on serious discrepancies between national law and practice and the provisions of the Convention.

The Committee referred in particular to provisions of the Local Government (District Authorities) Act, 1982, the Employment Ordinance, 1952, as amended, the Human Resources Deployment Act, 1983, the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Government Finances Act, 1982, under which compulsory labour may be imposed *inter alia* by administrative authority, on the basis of a general obligation to work and for purposes of economic development.

As The Government had indicated that it considered the observations by the Committee as valid and that legislation was under revision, the Committee expressed the hope that the Government would provide information on the measures taken to bring national law into conformity with the Convention.

The Committee notes that during the discussion in the Conference Committee in 1991, the Government stated that a new Employment Act, taking into account the Committee's comments, had been drafted and submitted to the Attorney-General's Department and the competent authorities within the Government in May 1991 and was expected to be tabled before the National Assembly by the end of 1991. The Government representative indicated that consultations were also progressing towards amending other provisions of concern.

The Committee notes that the Government's latest report contains no information on any action taken nor does it give any indication on any progress made in amending the legislation.

The Committee refers to article 25, paragraph (1), of the 1985 Constitution of the United Republic of Tanzania under which every person is obliged to voluntarily and honestly participate in lawful and productive work, to observe labour discipline and strive to achieve the individual and communal production targets required or prescribed by law; article 25, paragraph (2), provides that, notwithstanding paragraph 1, there shall be no forced labour in the United Republic. However, according to paragraph (3)(d) of article 25, no work will be considered as forced labour if that work is relief work that is part of compulsory nation-building initiatives, in accordance with the law, or if it is part of national efforts in

harnessing the contribution of everyone in the work of developing the society and national economy and ensuring success in development.

The Committee also notes the indications provided by the Government in its report on the application of the International Covenant on Civil and Political Rights according to which the Chama Cha Mapinduzi (CCM) Party Constitution sets out as part of its objectives in article 1, paragraph 5(6), that the CCM seeks to ensure that every able-bodied person works (CCPR/C/42/Add.12 of 26 August 1991).

The Committee has moreover taken note of several by-laws made between 1988 and 1990 under section 148 of the Local Government (District Authorities) Act, 1982, entitled "self-help and community development", "nation building", "enforcement of human resources deployment", "cultivation of agriculture", "planting and maintaining trees". The Committee notes in this regard for example that under the Mwanga District Council Self-help and Community Development by-laws 1989, Government Notice No. 246 of 20 July 1990, "the Council may direct that any kind of development activities be done by all residents in the affected area within the Council or persons with special knowledge"; while no limitation is imposed on the nature of the projects, the intended beneficiaries or the duration of the participation, full-time employees of Government, Council, the Chama Cha Mapinduzi Party, the parastatal organisations and private companies are inter alia exempted from participation. For other residents, participation is mandatory and enforceable through fines and "extortion of property". Such compulsory labour is not necessarily "minor" nor performed "by the members of the community in the direct interest of the said community" and thus is not confined to "minor communal services" under Article 2(2)(e) of the Convention. It is also contrary to Article 1(b) of Convention No. 105, ratified by Tanzania, which prohibits the use of compulsory labour for development purposes.

The Committee cannot but express its concern at the institutionalised and systematic compulsion to work established in law at all levels, from the National Constitution through Acts of Parliament to District by-laws.

The Committee firmly hopes that the Government will reconsider all the provisions contrary to the Convention and that it will report on action taken to repeal or amend the provisions in question. In particular, action is called for on the following points already raised in earlier comments.

#### Tanzania mainland

General obligation to work. 1. 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 again expresses the hope 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.

2. 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, 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 once more 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.

Compulsory labour for public purposes and development schemes. 3. 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.

4. The Committee had previously noted that under paragraph 103 of the first schedule to section 118(4) of the Local Government (District Authorities) Act, 1982, the performance of unpaid communal labour or the payment of compensation in lieu thereof may be required for a wide range of purposes "not barred by the Convention respecting the use of forced labour". Referring to paragraphs 36 and 37 of its 1979 General Survey on the Abolition of Forced Labour, the Committee requested the Government to indicate any measures taken or envisaged to ensure that such a requirement is limited to emergency work required by circumstances endangering the existence or well-being of the population, or to minor communal services - i.e. primarily maintenance work - performed in the direct interest of the local community and not intended to benefit a wider group. The Government indicated previously that in practice the local government legislation was used only for communal works for the benefit of the community, resulting from decisions of the community.

The Committee had, however, noted that by-laws imposing compulsory cultivation on resident landholders had indeed been made by district councils and approved by the national Government and that, under section 148 of the Act, by-laws may be adopted by district councils, subject to the consent of the Minister, for carrying into effect and for the purpose of any of the functions conferred by or under the Act or any other written law.

Referring also to the recent example, mentioned before, of sweeping by-laws made under section 148 of the Act and providing for compulsory labour for development purposes, the Committee hopes that paragraph 103 of the first schedule to section 118(4) of the Local Government (District Authorities) Act, 1982, will be amended so as to remain within the limits of Article 2, paragraph 2(d) and (e), of the Convention, and that measures will also be taken to ensure that no by-laws providing for the imposition of compulsory labour are approved under section 148 of the Act.

5. Compulsory cultivation. The Committee has noted that the Local Government Ordinance and following its repeal, the Local Government (District Authorities) Act, 1982, and section 121(e) of the Employment Ordinance (as amended by Act No. 82 of 1962) empower local authorities to impose compulsory cultivation. By-laws which restrict the production of food crops and oblige resident landholders to cultivate and maintain a fixed area of cash crops, under pain of a fine and improvement have indeed been made by district councils and approved by the national Government.

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.

6. 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. In its report for the period ending 15 October 1988 the Government stated 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 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.

[The Government is asked to supply full particulars to the Conference at its 79th Session and to report in detail for the period ending 30 June 1992.]

#### Thailand (ratification: 1969)

The Committee notes the Government's report and the discussion which took place in the Conference Committee in 1991.

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, that 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 police.

The Government has previously reported on certain legal, institutional, preventive, protective, rehabilitation and enforcement measures taken. The Government referred in particular to notification No. 12 of January 1990 by the Ministry of the Interior, to reinforce protection of working children from illegal abuse, and referred to prosecutions for exploitation or illegal use of child labour (11 in 1988, two in 1989, four from October 1989 through May 1990, resulting,

in 13 cases, in the imposition of fines and in one case in imprisonment).

In relation to information provided by the Government on inspections carried out and on action taken against exploiters of children, it appeared to the Committee that measures taken were somewhat limited in scope and the sanctions applied not commensurate with the physical and moral harm incurred by the children.

The Committee requested the Government to provide further information on measures taken to ascertain that children are not sold and purchased, and to remove children from nightspots and brothels and from illegal employment in private houses, hotels, restaurants and factories as well as information on complaints of child abuse, on inspections carried out, and on prosecutions undertaken and penalties imposed, including copies of court decisions.

The Committee notes the information supplied by the Government in its report of 28 February 1992 on measures taken or envisaged with a view to eliminating exploitation or illegal use of child labour. The Government indicates that it has taken the following initiatives:

- a bill to protect children, under which the sanction of imprisonment applicable to offenders would be raised from six months to one to five years, has been approved by the Cabinet and is in the process of submission to the National Assembly;
- a proposal has been made to revise the Act on employment service and jobseekers' protection (BE 2528), increasing the imprisonment term from six months to one to six years for child abductors and recruiters of employment agencies or shops involved in the sale of children and teenagers;
- a request has been made on 5 November 1991 by the Minister of the Interior to the Permanent Secretary for the Bangkok Metropolitan Administration and the Permanent Secretary for the Ministry of Public Health to order hospitals under their control to gather names of patients who have suffered injuries caused by improper working conditions or been victims of physical abuse, and to report to the Department of Labour;
- a "hot line" centre has been established by the Department of Labour under the Ministry of the Interior for receiving complaints;
- the labour service in Bangkok has been restructured: labour inspectors of the central office have been assigned to stations in 36 district areas of Bangkok so as to acquaint them more with local conditions and problems to solve emerging problems "on the spot". Responsibility of labour inspectors has been entrusted to city officials and local administrators throughout the country (Ministry of Interior Order No. 9/1992 of 7 January 1992);
- on 8 January 1992 the Public Prosecutor filed charges at the Criminal Court against the owner of an unlicensed paper cups factory, from which the police department rescued in October 1991 28 workers aged from 9 to 20. The charges refer to detention and torture of workers, illegal operation of a factory, employment of foreigners without permission, non-observance of conditions of employment relating to hours of work, holidays, employment of minors, etc.;



- employment of children as prostitutes has so far been banned by eight successive Thai Governments. The Ministry of Justice has increased penalties for those who torture children and cause loss of lives. The penalty under the criminal law has increased under the new prostitution bill whereby supervisors or managers of places of prostitution or controllers of prostitutes are liable to imprisonment from three to seven years;
- in rural areas the Ministry of the Interior has provided measures on protection against employment deception in the provinces: (provide clear employment information to young jobseekers in cooperation with rural agencies and rural government offices; create public awareness; prepare programmes of vocational guidance for children and teenagers);
- the policy to expand education from grade 6 to 9, started in 1989, is being pursued and expanded progressively (119 schools in 1989, 1,366 in 1991, 6,500 in 1995) with the aim of providing free education nationwide by 1997.

The Committee has also taken note of the statement by the Prime Minister to the 11th Asian Regional Conference (26 November-2 December 1991) according to which it was his firm conviction that the place for a child was in school and not in a factory; that it was not sufficient to wait for economic restructuring to redress the exploitation of child labour, and that he was determined to do away with child labour and safeguard the future of the underprivileged children in the country.

The Committee notes with interest this policy statement as well as the measures envisaged or already adopted to alleviate exploitation of children.

The Committee hopes that the Government will provide further information on steps taken or envisaged to review, strengthen and enforce legislation providing for protection against all forms of forced labour exploitation of children, and to punish exploiters. The Government is requested to provide in particular information on the following matters:

- (a) Legislation: legislative measures adopted by the National Assembly following proposals by the Government (Bill to protect children; revision of the Act on employment services and jobseekers' protection; anti-prostitution Bill); any other draft proposals submitted or envisaged, in particular as concerns the reinforcement of sanctions applicable.
- (b) Inspection: labour inspections carried out, findings of inspectors, results achieved through the decentralised structure in Bangkok and the implication of city officials and local administrators; any measures, budgetary and administrative etc., adopted to reinforce labour inspection, increase the number of inspectors and the means at their disposal, and providing them with a specific training. The Committee notes in this connection the "project on prevention and protection centre for child labour", to be established with the financial support of the ILO, which provides for the strengthening of the labour inspection system (including advice to employers and prosecution of infringements).

- (c) Police action: the Committee notes that the children from the paper cups factory were rescued by the Crime Suppression Division. The Committee hopes that the Government will be able to indicate measures envisaged or adopted to train and educate the local police and to provide them with financial support in order to motivate them in the search, pursuit and arrest of child exploiters and to lessen reported collusion between police and exploiters.
- (d) Job placement agencies: number of private job placement agencies controlled and/or closed; creation of state job agencies and results achieved.
- (e) Complaints: complaints received and action taken, in particular on those received through the hot line centre, as well as cases reported by hospitals.
- (f) Prosecutions, sanctions: information on the prosecutions engaged against exploiters, and on sanctions imposed.
- (g) Rehabilitation programmes and measures to help rescued children (including the increasing number of migrant children illegally brought into the country) to avoid their falling back into the hands of exploiters.

The Committee considers that forced labour exploitation of children, be it in forced child labour, child prostitution, child pornography, be it in factories, sweatshops, brothels, private houses or elsewhere, is one of the worst forms of forced labour. It must be fought energetically and punished severely. Measures to be adopted should seek to break the circle of practical impunity, to create an environment where any actual or potential exploiter and accomplice face severe punishment. The Committee recalls that, under Article 25 of the Convention, forced 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 trusts that the Government will take the necessary measures.

[The Government is asked to provide full particulars to the Conference at its 79th Session and to report in detail for the period ending 30 June 1992.]

#### Tunisia (ratification: 1962)

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

- 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;
- 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 notes the Government's statement that the harmonisation of the above texts with the Convention is the subject of an examination by an interdepartmental commission set up in June 1989.

The Committee requests the Government to supply information on the progress of this work. It hopes that the Government will soon report the measures that have been taken or are envisaged to amend the above texts in order to bring them into conformity with the Convention.

2. In its previous comments, the Committee noted that under the provisions of Act No. 86-27 of 2 May 1986, conscripts can 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 are subject to military conditions of service.

The Committee noted that following a basic military training and once the requirements of the units in the armed forces have been satisfied, by virtue of section 3 of Act No. 89-51, which repealed Act No. 86-27 of 1986 without changing the substance of the provisions in question, conscripts may be assigned collectively to the internal security forces and to development units, or individually to the public administration, to enterprises or to technical cooperation 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 notes the Government's statement in its report that Act No. 89-51 is not repressive and that it contains regulations governing an obligation deriving from section 15 of the Constitution of 1959, under which "the defence of the country and the integrity of its territory is a sacred duty of every citizen".

It also notes that, according to the Government, collective assignment to internal security forces and development units is justified because the internal security forces are an integral part of the armed forces and, moreover, the Minister of National Defence is responsible for participating in the construction of roads and infrastructure, particularly in regions that are isolated or of difficult access.

In its report, the Government also explains that individual assignment to the administration, to enterprises or to technical cooperation activities is carried out on a voluntary basis, and conscripts are made available to these institutions by order of the Minister of National Defence after having completed a period of military training. Such assignments are made on the grounds of economic reasons and national interest and the intention is to prevent the obligation to perform national service from depriving administrative departments and large enterprises from the managerial staff and technicians who are necessary for the effective functioning of these services, which are vital for the development of the country.

The Government states that military personnel who are detached are remunerated in accordance with the provisions of Decree No. 1232 of 1 August 1990, fixing the procedures for the detachment of national service conscripts to perform their service outside the units of the armed forces and the conditions governing their remuneration.

The Committee notes that Decree No. 1232 of 1 August 1990 includes the following provisions:

- state services, public local communities, state establishments and private enterprises shall make their needs in terms of managerial and specialised staff known to the Minister of National Defence (section 2);
- conscripts shall be made available to the above institutions by order of the Minister of National Defence, who may at any moment bring their assignment to an end; in such cases, for the remaining period the conscripts are transferred to one of the units of the army (section 6);
- conscripts who are individually assigned to the administration or to enterprises receive from the Ministry of National Defence by way of remuneration a sum that is fixed according to their grade (section 8);
- the employer pays each month to the National Service Fund the remuneration that is due to the individually assigned conscripts arising out of their employment, after deducting social contributions (section 10).

The Committee points out that the scope of the Convention includes military service, except for work of a purely military character (Article 2, paragraph 2(a), 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 a purely military character. Furthermore, the Committee points out that Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105), which has also been ratified, specifically prohibits the use of compulsory labour for purposes of economic development.

The Committee is bound to refer in this connection to paragraphs 24 to 33 and 49 to 62 of its 1979 General Survey on the Abolition of Forced Labour in which it examined obligations flowing from the Conventions in this respect and described the problems arising from the use of recruits for non-military purposes. The Committee hopes that the Government will take the necessary measures to ensure the observance of the Convention in this respect.

#### Venezuela (ratification: 1944)

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

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

authorities. The Committee asked for detailed information on the number of persons who had been the subject, during the past three years, of security measures involving the obligation to work, the duration of these measures and the establishments in which those concerned had been detained.

The Committee noted that, according to the Government's report for the period ending 30 June 1989, no further progress had been made in the revision of the Penal Code, and that the report did not contain the information requested concerning the application, in practice, of the provisions in question.

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

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

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

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

#### Zaire (ratification: 1960)

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

The Committee noted from the information supplied by the Government that efforts to bring the legislation into line with the Convention were 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 for the period ending 30 June 1989, the Government repeated its previous indications that it would transmit the new legislation as soon as it had been enacted, and trusts that the Government will shortly be able to report that the new provisions had 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 Zaïre 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 again expresses the hope 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 noted from the information provided by the Government in its report for the period ending 30 1989 that the National Labour Council had completed its work on the revision of the Labour Code and that the draft provided 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 expressed the hope that the Government would be able to transmit the text of the new Code in the near future.

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, Antigua and Barbuda, Bahamas, Bahrain, Barbados, Belarus, Belgium, Belize, Benin, Burundi, Cameroon, Cape Verde, Central African Republic, Chile, Congo, Côte d'Ivoire, Costa Rica, Cuba, Denmark, Dominica, Ecuador, Gabon, Germany, Greece, Grenada, Guinea-Bissau, Guyana, Hungary, India, Iraq, Ireland, Japan, Kenya, Lao People's Democratic Republic, Lesotho,



Liberia, Luxembourg, Morocco, Myanmar, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Poland, Romania, Russian Federation, Senegal, Solomon Islands, Somalia, Sri Lanka, Swaziland, United Republic of Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, Venezuela, Zaire.

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

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

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

Algeria (ratification: 1962)

1. In the comments it has been making for several years, the Committee has referred to the absence from national law of provisions to give effect to the Convention. The Committee noted that a model statute concerning dockers was to be prepared pursuant to Act No. 78/12 of 5 August 1978.

In its latest report, the Government indicates that it has not lost sight of the need for, and urgency of, implementing the specific texts provided for in the Health and Safety Enabling Act and that at present the emphasis is being laid on the preparation and adoption of the technical texts.

The Committee hopes that the Government will adopt as soon as possible the necessary measures to ensure compliance with the Convention and that it will report on the progress made in that respect.

2. The Committee notes from the Government's report the adoption of several texts of regulations which are enumerated in the report; it asks the Government to supply with the next report a copy of the Interministerial Order of 5 November 1989 concerning procedure for supervising the processes of loading and unloading dangerous goods.

[The Government is asked to report in detail for the period ending 3 June 1992.]

Mauritius (ratification: 1969)

1. Further to its previous comments the Committee notes with interest that sections 9, 43 and 45 of the Occupational Safety, Health and Welfare Act, 1988, gives effect to provisions of Article 3, paragraph 2 (means of access to a ship, lying alongside a quay or some other vessel, provided for the use of workers), Article 5, paragraph 5 (ladders to be used by the workers in the hold of a vessel), Article 17, paragraph 3 (posting of copies of Regulations), of the Convention.

2. Article 3, paragraphs 3 and 4. Regulation 10 of the Dock Regulations, 1937 mentioned by the Government in its report, foresees the use of a ship accommodation ladder or a gangway or a similar construction of a ship lying at a wharf or quay, whereas under indicated provisions of the Convention their use shall also be prescribed in case of a ship lying alongside some other vessel.

For many years, since 1966, the Government has been expressing the intention of amending the Dock Regulations, 1937, in order to give full effect to the Convention. In its reports of 1985 and 1987, the Government described certain stages of the process of amending the Dock Regulations. Now, in its last report, it does not refer to this draft. The Committee draws once again the Government's attention to the need to introduce amendments to the above-mentioned provisions and requests it to indicate in its next report any progress made in this respect.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Canada, Chile, China, Singapore.

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

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

#### Argentina (ratification: 1950)

With reference to its previous comments, the Committee notes the Government's report for the period ending 30 June 1991, which states that there have been no new developments and that the Government refers the Committee to the information sent in reply to the observation of 1988.

In its observation of 1988, the Committee noted a draft Bill to ratify the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). In its observation of 1990, the Committee noted two private members' Bills with the purpose to abolish the role of fee-charging employment agencies in the placement of temporary workers. In the same observation, the Committee also noted Decree No. 1455, of 8 August 1985, issuing regulations governing the activities of agencies for temporary workers (ATT).

In its previous comments, the Committee drew the Government's attention to the more flexible provisions of Convention No. 96. Each Member ratifying Convention No. 96 must indicate in its instrument of ratification whether it accepts the provisions of Part II, which provide for the progressive abolition of fee-charging employment agencies conducted with a view to profit and the regulation of other agencies; or the provisions of Part III, which provide for the regulation of fee-charging employment agencies, including agencies conducted with a view to profit. The ratification of Convention No. 96 involves ipso jure the immediate denunciation of Convention No. 34.



Sections 77 to 80 of the National Employment Act (Act No. 24013, promulgated in December 1991) establish a new regulation concerning agencies called "temporary employment enterprises", which appear to act as intermediaries in the recruitment of workers for temporary employment elsewhere.

The Committee again reminds the Government that, under the provisions of Articles 2 and 3 of Convention No. 34, fee-charging employment agencies conducted with a view to profit should have been abolished by 1955 (i.e. three years after the entry into force of the Convention). The Committee therefore asks the Government to indicate whether the special temporary employment enterprises provided for in the National Employment Act of 1991 can be considered as such employment agencies which should have been abolished by 1955 or as "employment agencies not conducted with a view to profit" (within the meaning of the provisions of Article 1, paragraph 1(b), and Article 5). If the latter be the case, the Committee would be grateful if the Government would specify the provisions in the national legislation which ensure that effect is given to the Convention and particularly that the special short-term employment agencies "shall not make any charge in excess of the scale of charges fixed by the competent authority with strict regard to the expenses incurred" (Article 4(b)).

[The Government is asked to report in detail for the period ending 30 June 1993.]

#### Mexico (ratification: 1938)

With reference to the comments that it has been making for a number of years, the Committee notes that Mexico has ratified the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). This ratification implies the automatic denunciation of Convention No. 34.

As the Government mentions in its last report on Convention No. 34, it has accepted the provisions of Part III of Convention No. 96, which provide for the regulation of fee-charging employment agencies, including employment agencies conducted with a view to profit.

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

#### Chile (ratification: 1935)

The Committee takes note of the information supplied by the Government in its report and in particular of the statistical data on the compulsory old-age insurance scheme.

1. Article 9, paragraph 1, of the Convention. In response to the Committee's previous comments, the Government repeats that Legislative Decree No. 3500 of 1980, which established the Individual Capital Accumulation Pension System, did not envisage any compulsory contribution by employers to the workers' Pension Fund, since that Fund is constituted by the worker himself with the compulsory contribution which his employer deducts from his wages every month,

with such contributions as the worker may pay voluntarily into his individual capital accumulation account, and with such voluntary deposits as the worker may make as savings in what is termed a voluntary savings account. However, section 18 of Legislative Decree No. 3500 of 1980, as amended by section 1 of Act No. 18964 of 10 March 1990 provides for a voluntary contribution by employers termed "Agreed Deposits", consisting of such sum or sums which they deposit in agreement with the worker concerned, in the worker's individual capital accumulation account in order to add to the capital needed to finance an early retirement pension or to increase the amount of this pension. The Government adds that these contributions may be agreed upon between the workers and the employer individually or collectively.

The Committee has taken note of the detailed information supplied by the Government. It observes, however, that section 18 of Legislative Decree No. 3500 of 1980, as amended by Act No. 18964 of 1990, cannot be regarded as establishing a contribution by employers to the financial resources of the compulsory insurance scheme within the meaning of Article 9, paragraph 4, of the Convention inasmuch as this merely tends to be a possible supplementary contribution upon which the worker may agree with his employer without there being any legal obligation on the employer to bear its cost. The Committee consequently hopes that the Government will take the necessary measures to give effect to the recommendations of the Committee set up by the Governing Body to examine the representation submitted by the National Trade Union Coordinating Council (CNS) of Chile, under article 24 of the Constitution, alleging non-observance by Chile of, inter alia, Convention No. 35 (see document GB.234/23/28, 234th Session, 17-21 November 1986).

2. Article 9, paragraph 4. In response to the Committee's previous comments concerning the financial contributions of the public authorities, the Government confines itself to repeating that Legislative Decree No. 3500 of 1980 provides for state contribution to the financial resources through the state guarantee, laid down in sections 73 et seq., of minimum old-age, invalidity and survivors' benefits for those insured persons who satisfy the requirements laid down in the Legislative Decree. The Committee cannot but refer again to the conclusions of the Committee set up by the Governing Body, that "although the present legislation provides for the possibility of some financial participation by the State in the form of a guarantee, this participation, given its conditional and thereby exceptional nature, does not strictly correspond to the contribution to the financial resources or benefits of insurance schemes" prescribed by the Convention. The Committee again expresses the hope that the Government will adopt the necessary measures to give full effect to this provision of the Convention.

3. Article 10, paragraphs 1 and 2. In response to the Committee's previous comments, the Government states that Legislative Decree No. 3500 of 1980 entrusts the administration of the insurance scheme to the Pension Fund Administrations (AFPs); these are limited liability companies, the authority for whose existence, supervision and control is entrusted to the Pension Fund Administration Supervisory Body, a state body whose chief powers are to authorise the formation or winding up of these companies and to check on the

investment of resources and the composition of the investment portfolio. In addition, AFPs may be set up on the initiative of workers or their associations and it may be specified in their statutes that such profit as they make shall be devoted to the grant of other social benefits to worker shareholders and their families.

The Committee takes note of the Government's statement. It points out that the Pension Fund Administrations (AFPs), to which the administration of pensions is entrusted by Legislative Decree No. 3500 of 1980, are limited liability companies and therefore private profit-making institutions; the fact that these institutions are subject to state supervision does not change their character, even though such supervision may diminish the risks inherent in a private institution. In this connection the Committee observes that, according to the statutes of the AFP "Futuro S.A." supplied by the Government, the company, unless the board of shareholders unanimously agrees otherwise, shall annually distribute at least 30 per cent of the liquid profits for the financial year as a cash dividend to its shareholders in proportion to their shares. Furthermore, it is not made clear in those statutes that the AFP "Futuro" S.A. belongs to workers or to workers' associations even though the Government indicates in its report that that is the case. In these circumstances, the Committee cannot but refer again to the recommendations of the Committee set up by the Governing Body that the Government should adopt appropriate measures to amend Legislative Decree No. 3500 to ensure that the insurance scheme is administered by non-profit-making institutions, as prescribed by these provisions of the Convention, except in cases where the administration of the scheme is entrusted to institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities. The Committee also asks the Government to continue supplying information on the establishment of any new occupational AFPs.

4. Article 10, paragraph 4. In response to the Committee's previous comments, the Government repeats that, in accordance with this provision of the Convention, the workers participate actively in the management of the system. In addition to referring again to the seven Pension Fund Administrations in which the workers have part or total ownership and are represented on the board of directors, the Government supplies information concerning the AFP HABITAT. In this connection it states that in 1989 the board of directors of AFP HABITAT set up a nationwide Members' Participation Committee as one response to anxiety which had arisen among the shareholders; this Committee fits into the general policy pursued in the Chilean Chamber of Construction of maintaining bodies with workers' participation. This Committee, one of the first of its kind in the Chilean social insurance setting, is composed of 11 members including one pensioner and one trade union leader. The Committee holds meetings at which the insured persons are informed of the results obtained, the legal regulations and the general policies of the AFP.

The Committee takes note of this information. It again refers to the conclusions of the Committee set up by the Governing Body that "the participation of insured persons in the management of the AFPs results neither from the current legislation nor from the statutes of

these limited liability companies, which make no reference to them or to any occupational organisations ... ". The text of the statutes of the AFP "Futuro" S.A., supplied by the Government, does not appear to invalidate this conclusion.

Consequently the Committee again expresses the hope that the Government will give effect to the recommendations of the Committee set up by the Governing Body, and adopt the necessary measures so that the representatives of the insured may participate in the management of all insurance institutions under conditions to be determined by national laws or regulations, in accordance with the provisions of the Convention.

France (ratification: 1939)

The Committee notes that the Government's report contains no new information in reply to its previous comments. It must therefore repeat its previous observation which read as follows:

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).)

\* \* \*

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

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

Chile (ratification: 1935)

See under Convention No. 35.

France (ratification: 1939)

See under Convention No. 35.

\* \* \*

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

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

Chile (ratification: 1935)

The Committee takes note of the information supplied by the Government in its report and in particular of the statistical data on the compulsory invalidity insurance scheme.

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

2. Article 10, paragraph 4. See under Convention No. 35, Article 9, paragraph 4.

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

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

France (ratification: 1939)

See under Convention No. 35.

\* \* \*

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

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

Chile (ratification: 1935)

See under Convention No. 35.

France (ratification: 1939)

See under Convention No. 35.

\* \* \*

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: 1960)

For many years the Committee has been pointing out to the Government that section 3 of Order No. 3759 of 25 November 1954 allows departures to be made from the ban on night work for women in circumstances which are not recognised by this Convention but are close to those authorised by Article 5 of Convention No. 89. The Committee again expresses the hope that the Government will do everything in its power to take, in the near future, the necessary measures which have long been announced to bring the law into harmony with the Convention. It asks the Government to indicate all progress made in that direction.

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

Algeria (ratification: 1962)

Article 2 of the Convention. With reference to its previous comments, the Committee notes with interest the Government's statement that the interministerial technical committee set up to examine existing schedules of occupational diseases and to modify and update them as necessary, taking into account the points raised by the Committee of Experts, has completed its work. It also notes that the schedules will be forwarded to the Office as soon as they are published. The Committee therefore hopes that the implementing texts of Act No. 83-13 of 5 July 1983 will shortly be adopted and that the new schedule of occupational diseases will accordingly take account of the points raised concerning the schedules annexed to the Order of 22 March 1968 as amended, namely:

- (a) the list of the various pathological manifestations appearing under each "disease" in the left-hand column of the schedules in the national legislation should be of an indicative nature, as is the list of corresponding activities in the right-hand column of these schedules;
- (b) the wording of the items concerning poisoning by arsenic (schedules Nos. 20 and 21), manifestations due to the halogen derivatives of hydrocarbons of the aliphatic series (schedules Nos. 3, 11, 12, 26 and 27), poisoning by phosphorus and certain of its compounds (schedules Nos. 5 and 34) should be replaced by wording covering in general terms - like that of the Convention - all manifestations that may be caused by the above substances (wording of this kind would make it possible also to cover diseases that might be caused by the utilisation of new products, as the Government pointed out earlier);
- (c) the activities that may cause anthrax infection (schedule No. 18) should include the loading and unloading or transport of merchandise in general, so as to cover workers (such as dockers)

who may unwittingly have transported merchandise contaminated by the anthrax spore.

Australia (ratification: 1959)

1. Tasmania. Following its previous comments, the Committee notes with satisfaction the adoption of the Workers' Compensation Act, 1988, schedule 4 of which contains a list of diseases presumed to be of occupational origin in accordance with Article 2 of the Convention and its appended schedule.

2. Capital Territory. In reply to the Committee's previous comments the Government states that, contrary to its previous report, the Workmen's Compensation Act, 1951 which covers private sector employees has not been amended in respect of the schedule of occupational diseases, and that no plans exist to amend it. It adds that in its opinion there are no shortcomings in the present legislation. The Committee notes this statement. It recalls that the Workmen's Compensation Act, 1951 does not include in the list of trades, industries or processes likely to cause anthrax infection "the loading and unloading or transport of merchandise", as mentioned by the schedule appended to Article 2 of the Convention, and that as regards the federal public sector employees, a similar shortcoming was resolved by the adoption of the Commonwealth Employees Rehabilitation Compensation Act, 1988. The Committee hopes, therefore, that the Government will reconsider its position and that it will be able to take the necessary measures, in accordance with its previously expressed intention, so as to bring the list of occupational diseases and corresponding occupations, contained in the Workmen's Compensation Act, 1951 into full conformity with the Convention on this point.

3. Western Australia. The Committee notes from the Government's report that its previous comments regarding the conditions in which anthrax is recognised as an occupational disease in the Workers' Compensation and Assistance Act, 1981 were forwarded to the Western Australian Tripartite Labour Consultative Council, which should state its opinion on amending the Act in question. The Committee once again hopes that the Government will be able to amend its legislation in accordance with the Convention in the near future.

4. Queensland. Since 1963, the Committee has been calling the Government's attention to the legislation in force in this State which, unlike the Convention, does not establish a presumption of the occupational origin of the disease for workers engaged in the industries or occupations mentioned in the right-hand column of the schedule of the Convention, when they suffer from one of the conditions appearing in the left-hand column of this schedule.

The Committee notes that the new Workers' Compensation Act, 1990 which has replaced the Workers' Compensation Act, 1916, has brought no change in the legislation in that respect. The Government maintains its view that the definition of injury under the new Act covers all diseases of an occupational nature and is sufficiently broad to cover the diseases enumerated in the Convention. In this situation the Committee is bound once again to express the hope that the Government will reconsider its position, in the light of the above-mentioned



comments, so as to supplement the present workmen's compensation scheme for diseases with a double-list system, in conformity with the Convention.

5. South Australia. The Government indicates that South Australia has not yet completed its reply to the Committee's previous comments. It recalls that these comments have been pending since 1987. The Committee hopes, therefore, that the next report of the Government will indicate measures taken or contemplated to supplement the second schedule appended to the Workers' Compensation Act, 1971, as amended, by including as a process likely to cause anthrax "the loading, unloading or transport of merchandise", in conformity with the Convention.

6. New South Wales. The Committee notes that the Workers' Compensation Act of 1926 was replaced by the Workers' Compensation Act of 1987, section 19 of which provides for regulations to determine diseases deemed work related. Please indicate whether any such regulations have been issued and, if so, supply a copy of them.

#### Bahamas (ratification: 1976)

The Committee notes with regret that the Government's report has not been received, and that its three last reports contain 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.

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

France (ratification: 1948)

The Committee has for many years been drawing the Government's attention to the need to bring the national law into full conformity with the Convention on the following points: (a) the restrictive nature of the pathological manifestations listed under each of the diseases included in the schedules of the national legislation; (b) the absence from those schedules of an item covering in general terms, as in the Convention, poisoning by all halogen derivatives of hydrocarbons of the aliphatic series and by all compounds of phosphorus; and (c) the omission, from among trades likely to cause primary epitheliomatous cancer of the skin, of processes involving the handling of certain products mentioned by the Convention.

With regard to the restrictive nature of the pathological manifestations listed under each of the diseases included in the schedules of occupational diseases, the Government states in particular that their restrictive nature cannot be separated from the characteristics of those schedules: when a wage-earner satisfies the conditions specified in the schedule, his disease is presumed to be occupational without his having to prove any connection between pathology and work. The proof is shifted to the level of the drafting of the schedule itself; the schedule is adopted when the link between pathology and particular jobs is established with reasonable epidemiological certainty. In some cases, that certainty applies only to certain occupational situations, while others introduce too high a proportion of extraoccupational factors. Furthermore, the Government indicates that the schedules of occupational diseases concerning poisoning linked to contact with phosphorus and poisoning caused by halogen derivatives of hydrocarbons of the aliphatic series all include indicative lists of jobs. It adds that only the schedules of occupational diseases Nos. 16bis and 36bis concerning compensation for primary epitheliomatous cancer of the skin include a restrictive list necessitated by the possibly non-occupational etiology of this condition. It considers, however, that this intention to target the occupational etiology of this disease is in conformity with the Convention.

The Committee takes note of this information. It can only draw the Government's attention again to the fact that the restrictive enumeration by law of certain pathological symptoms and manifestations institutes a more limited system of coverage than that prescribed by the Convention, whose intentionally broad terms make it possible to

compensate for all conditions that may be caused by the substances shown in the schedule annexed to the Convention when they affect workers employed in the corresponding trades, industries and processes. As to poisoning by the halogen derivatives of hydrocarbons of the aliphatic series and poisoning caused by phosphorus and its compounds, the Committee points out that its comments dealt, not with the restrictive nature of the jobs likely to cause them, but with the fact that the corresponding schedules of French law mention only some of the products likely to cause such poisoning, whereas the schedule annexed to the Convention is worded in general terms. Lastly, in the case of primary epitheliomatous cancer of the skin, the Committee considers that schedules Nos. 16bis and 36bis do not permit coverage of all the substances mentioned by the Convention as likely to cause that disease.

The Committee has, however, noted with interest the Government's statement that it is now thinking about installing a system of identification of pathologies of an essentially occupational character, which would supplement the existing system and make it possible to compensate for a disease that was not listed in a schedule because it was not "occupational" as regards the epidemiological criteria referred to above, but that was attributable case by case to certain particular working conditions. The Committee hopes that this reflection may lead to the adoption of the necessary measures to bring the national law into full conformity with the Convention on the points mentioned above. It expresses once again the hope that the Government will be able to indicate in its next report the progress made on these lines.

Guyana (ratification: 1966)

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

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 requested to report in detail for the period ending 30 June 1992.]

#### Haiti (ratification: 1955)

The Committee notes that the Government's report received in February 1991 contains no new information in reply to its previous comments. The Committee cannot but express once again the hope that the Government, with ILO technical assistance if necessary, will be able to provide, with its next report, statistics of the number of workers employed in the trades, industries and processes in the schedule to Article 2 of the Convention, the cases of sickness reported and the sums paid by way of compensation, in accordance with point V of the report form adopted by the Governing Body on this Convention.

#### New Zealand (ratification: 1938)

In reply to the Committee's previous comments the Government indicates once again that the New Zealand accident compensation scheme allows for greater flexibility in the compensation of occupational diseases and that, because of an extremely liberal interpretation by the courts of the present general definition of "occupational diseases" in the Accident Compensation Act, 1982, the protection ensured is wider than that which may be given on the basis of the list of diseases mentioned in the schedule to the Convention. The Government also indicates that, following a review of the Act by a working party, it is contemplated to adopt legislation which will, however, retain similar coverage for occupational diseases as currently exists, but with a new and more clearly interpreted definition within the Act. If this occurs, the Government will further consider the possibility of ratifying the Employment Injury Benefits Convention, 1964 (No. 121).

The Committee notes this statement. It cannot but recall that the system of "full coverage" provided by the national legislation, which in most cases leaves the burden of proof of the occupational origin of a disease to the worker, while it may cover a greater number

of diseases is not in accordance with the Convention since, under this system, the diseases listed in the schedule to the Convention are not automatically presumed to be occupational when they are contracted by workers engaged in the trades or industries listed in this schedule.

The Committee therefore once again urges the Government to re-examine this question and to take the necessary measures to bring the national legislation into full conformity with the Convention by supplementing the general definition of occupational diseases contained in the Accident Compensation Act by a non-exhaustive list of occupational diseases and corresponding trades, unless it chooses to ratify Convention No. 121, which provides for, *inter alia*, the system of "full coverage" in its Article 8(b) and the ratification of which would ipso jure involve the denunciation of Convention No. 42.

\* \* \*

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

#### **Convention No. 43: Sheet-Glass Works, 1934**

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

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

Algeria (ratification: 1962)

In reply to the Committee's previous comments, the Government states that it has examined the procedures for the establishment of an unemployment allowance. It adds that the regulations and procedures to govern this matter will certainly apply the principles set out in the Convention.

The Committee notes this statement with interest. It expresses the hope that the unemployment allowance scheme will be established in the very near future so that full effect can be given to the provisions of the Convention which was ratified 30 years ago. It asks the Government to indicate any progress made in this respect.

Peru (ratification: 1962)

The Committee observes with regret that, for the second time in succession, it has not received the Government's report. Consequently the Committee is compelled to ask the Government once again to supply information on the outcome of the announced consultations with representative organisations of employers and workers to enable them

to express their views concerning the problems presented by the application of the Convention and ways of solving them.

In view of the years that have elapsed since the ratification of this Convention, the Committee expresses the hope that the Government will do everything in its power to give effect to the provisions thereof. In this connection the Committee ventures to suggest to the Government the possibility of having recourse to the International Labour Office for the necessary assistance in instituting, by methods suited to the country's needs and capacities, an unemployment insurance scheme in conformity with the fundamental provisions of this Convention.

\* \* \*

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

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

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

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

Central African Republic (ratification: 1964)

Further to its comments over many years, the Committee notes the information provided in the Government's report and in the Conference Committee in 1991, from which it appears that there has been no progress in amending the legislation in order to comply with Article 2 of the Convention. The Government stated that this matter depends on the revision of the Labour Code now being undertaken by the National Labour Advisory Committee. In these circumstances, the Committee would again refer to its earlier comments, which read as follows:

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. 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. It 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 79th Session.]

Côte d'Ivoire (ratification: 1961)

Articles 2 and 4 of the Convention. For many years, the Committee has been calling the Government's attention to section 108, subsection 2, of the Labour Code, which provides that a collective agreement or individual employment contract may provide for a qualifying period of between one year and 30 months of actual service for entitlement to holiday. This provision is not consistent with the Convention, which specifies 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 has previously noted that legislation had been drafted to abolish the above subsection. No additional information has been provided as to the adoption of the legislation. The Committee once again expresses its strong hope that the necessary measures will very soon be taken to ensure conformity with the Convention.

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

Morocco (ratification: 1956)

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(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.

Panama (ratification: 1958)

Article 2 of the Convention. Further to its previous comments, the Committee notes the Government's indication that section 59 of the Labour Code provides protections sufficient to satisfy the requirements of the Convention, in that the labour authority may prohibit the accumulation of annual leave if it thinks that it would

be contrary to the worker's interest. The Committee must observe however that there is no requirement set out in the legislation which ensures that the workers covered by the Convention receive an annual holiday with pay of at least six working days. It recalls that the necessary amendment has already been drafted, and it once more trusts that the Government will take the measures necessary to bring national legislation into conformity with the Convention.

Article 3. The Committee notes that no progress in regard to application of this provision has been reported by the Government. It hopes that the draft text, prepared to supplement section 54 of the Labour Code by expressly providing for the obligation to include in remuneration payable for annual paid holidays the cash equivalent of any remuneration in kind, will soon be adopted. In the meantime it would be glad if the Government would indicate how this Article is applied in practice.

[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: Lebanon, Libyan Arab Jamahiriya, New Zealand.

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

#### Spain (ratification: 1971)

With reference to its previous observations following comments made by the College of Merchant Navy Officers (COMME), the Committee notes the Government's reply that the General Directorate of the Merchant Marine had, in February 1989, called a meeting of the social partners (shipowners' and seafarers' organisations) in order to reach an agreement authorising continued use of uncertificated replacement officers within the meaning of Article VII, paragraph 3, of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention). The Government further indicates that in accordance with this agreement it rejected certain applicants for certificates. However, the Government states that even if the use of the uncertificated replacement officers is foreseeable, it is nevertheless unavoidable by any prudent action or reasonable efforts to resolve the problem without disproportionate sacrifices. In these circumstances the Government now considers the exception is covered by the notion of force majeure, while admitting the need to make efforts to overcome the difficulties involved.

The Committee recalls that under Article 3(2) of the Convention exceptions to certification requirements may only be made in cases of force majeure. It recalls the Government's previous indication that the use of uncertificated replacement officers violated Spanish law and Spain's international obligations and that its current policy was for the gradual use of adequately qualified professionals instead. It



further recalls its previous comment that national legislation does not define the circumstances in question as a case of force majeure within the meaning of the Convention. The Committee urges the Government to adopt the necessary measures to ensure that the requirements of the Convention are fully met, and to continue to provide information on the manner in which these provisions are applied.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Brazil, Denmark, Egypt, Finland, France, Ireland, Liberia, Liyan Arab Jamahiriya, Mexico, Norway, Peru, United States, Yugoslavia.

Information supplied by Germany, New Zealand, Panama in answer to a direct request has been noted by the Committee.

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

Egypt (ratification: 1982)

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

Article 9 of the Convention. The Government indicates that Title III, Chapter 4 of the Labour Code of 1981 respecting the organisation of individual labour relations applies in the event of individual disputes. It adds that the relationship between the seafarer and the employer is also governed by Act No. 158 of 1959 respecting seamen's contracts of employment and that the Merchant Shipping Code, the Civil Code and the Labour Code apply to all cases not provided for in Act No. 158. The Committee observes, however, that national laws (and particularly the Merchant Shipping Code) make no provision, as required by Article 9 of the Convention, for securing a rapid and inexpensive settlement of disputes concerning the liability of the shipowner under this Convention. It therefore hopes that appropriate steps will be taken shortly to give effect to this provision of the Convention. It requests the Government, in its next report, to provide information on any progress made in this respect.

Article 11. The Government refers to section 1 of Act No. 158 of 1959 respecting seafarers' contracts of employment, under which "the provisions of this Act govern any contract whereby a person undertakes to work in return for remuneration under the direction or supervision of the master of a merchant vessel of the United Arab Republic". The Government indicates that this Act applies to all persons employed on board a vessel, whether or not they are of Egyptian nationality, which, the Government considers, ensures equality of treatment between Egyptians and foreigners employed on board an Egyptian vessel. While noting this information, the Committee is bound to recall that the Social Insurance Act No. 79, 1975, as amended, whose provisions also ensure implementation of the Convention, makes the equality of treatment of seamen depend upon residence and reciprocity (section 2(b), in fine), contrary to this provision of the Convention.

Accordingly, the Committee must again express the hope that the Government will not fail to take the necessary measures to amend the legislation to ensure that full effect is given to this provision of the Convention.

Liberia (ratification: 1960)

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

The Committee notes 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)

1. The Committee notes the information supplied by the Government. It also notes with interest the Bill (No. 15) to regulate employment at sea and on waterways which, according to the information supplied by the Government on Convention No. 105, has been submitted to the legislative assembly.

The Committee hopes that this Bill will be adopted in the near future so as to give full effect to the Convention, which has been the subject of its comments for many years. It requests the Government to report the progress achieved in this respect. The Committee also hopes that it will be possible to supplement or amend the text of the Bill before its adoption in order to take into account the following points:

- (a) by virtue of the last paragraph of section 1, the Bill does not apply to employment relationships on board the vessel when the services that are supplied are not directly related to the operation of the vessel. This exclusion appears to be broader than those authorised in Article 1, paragraph 2(b) and (c), of the Convention, which cover persons employed on board by an employer other than the shipowner and persons employed solely in ports in repairing, cleaning, loading or unloading vessels;
- (b) section 5 of the Bill limits the definition of the term "vessel" to ships and boats which undertake the activities of maritime commerce and which are exposed to the hazards of maritime navigation whereas, subject to the reservations set out in paragraph 2, Article 1, paragraph 1, of the Convention covers any vessel ordinarily engaged in maritime navigation, other than a ship of war;
- (c) section 97(b) of the Bill excludes the shipowner from responsibility in respect of accidents attributable to seamen whereas, in accordance with Article 2, paragraph (b), of the Convention, only injury or sickness due to the wilful act, default or misbehaviour of the sick, injured or deceased person may be excluded;
- (d) section 99 of the Bill provides for the coverage of the necessary and reasonable cost of medical, surgical, hospital, etc. treatment and the costs of board and lodging. It would be desirable to delete the words "and reasonable" since this criterion (which is not set out in Article 3 of the Convention) is relatively imprecise and is in any case already taken into account by the term "necessary costs".

The Committee also hopes once again that the Government will be able to supply in its next report the information requested on 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 Government is asked to report in detail for the period ending 30 June 1992.]

Tunisia (ratification: 1970)

Articles 4 and 5 of the Convention (in conjunction with Article 11). The Committee notes from the information supplied by the Government in response to its previous observations, that the Bill to amend sections 93, 95 and 110 of the Maritime Labour Code in order to bring them into conformity with the provisions of the Conventions ratified by Tunisia, and particularly Convention No. 55, has still not been adopted. The Committee recalls that the Government already enclosed with its report for the period 1982-83 a copy of the Bill drawn up by the Ministry of Transport and Communications and indicated at the time that the Bill would shortly be submitted to the Chamber of Deputies.

The Committee trusts that the above-mentioned Bill which, according to earlier information from the Government, should make it possible to ensure that the provisions of the Convention also apply to seafarers engaged by the voyage, will be adopted shortly. It hopes that the Government's next report will contain detailed information on progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1993.]

\* \* \*

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

**Convention No. 56: Sickness Insurance (Sea), 1936**Panama (ratification: 1971)

Article 1 of the Convention (Scope). In its previous comments, the Committee noted that, under Resolution No. 1348-83 J.D. of 14 April 1983, foreign seamen married to a non-Panamanian wife or having children by a non-Panamanian mother were excluded from the social security scheme. In its latest report on the period 1986-91, the Government confirms that this exclusion was due to a drafting error that did not arise out of any intention to discriminate. It adds that the Technical Board of the Insurance Fund has been instructed to formulate a proposal designed to bring the aforementioned Resolution No. 1348-83 into harmony with Article 1 of the Convention. The Committee notes this information with interest. It consequently expresses the hope that the said Resolution No. 1348-83 may shortly be amended to ensure full conformity with the Convention, which makes no distinction on the basis of nationality with the sole exception provided for in Article 1, paragraph 2(d), of persons not resident in the territory of the member State. The Committee ventures to remind the Government of the possibility of having recourse to the technical assistance of the International Labour Office.

Peru (ratification: 1962)

With reference to its previous comments and to 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", the Committee notes with interest the adoption of Directive No. 001-DNPS-IPSS-91 of 4 January 1991 which facilitates the provision of medical treatment in cases of emergency, providing in Point V.2 that the insured person is only required to present his latest pay slip in order to check his labour relationship and the fact that social security deductions have been made by the employer. In addition, point VI.1 of the above Directive contains a provision similar to that of section 34 of Legislative Decree No. 22482 of 27 March 1979, according to which all the costs incurred by the Peruvian Institute of Social Security (IPSS) in case of non-payment of the financial contributions by the employer shall be recovered from the employer by legal action. In view of the fact that said Directive No. 001-DNPS-IPSS-91 of 1991, and in particular its points II and V.2, is limited to "cases of emergency", the Committee hopes that the Government will indicate in its next report the measures taken or contemplated in order to ensure the full application in practice of Article 3, paragraph 1 of the Convention in all cases where the employer has not paid his financial contribution to the sickness insurance institution.

In addition, the Committee once again 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.

\* \* \*

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

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

**Convention No. 58: Minimum Age (Sea) (Revised), 1936**Liberia (ratification: 1960)

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

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.

\* \* \*

In addition, a request regarding certain points is being addressed directly to 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 fourth consecutive year. It must therefore repeat its previous observation which read as follows:

Further to its previous observations, the Committee notes 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.

Tunisia (ratification: 1970)

In the comments that it has been making for a number of years, the Committee has referred to section 54(2) of the Labour Code, which excludes child apprentices from the scope of its minimum age provisions. It requested the Government to indicate the measures taken to ensure that, in accordance with the provisions of Article 2 of the Convention, the minimum age of admission to employment of 15 years is observed for apprentices. The Committee pointed out that the Convention only provides for exceptions to the minimum age of admission to employment or work of 15 years for work done by children in technical schools, provided that such work is approved and supervised by the public authority.

The Committee takes due note of the information on apprenticeship and on the policy that is followed or envisaged in this respect, as provided by the Government in its report. It also notes the provisions of sections 343 to 363 of the Labour Code relating to apprenticeship, which sets out vocational training mechanisms which are different in their nature and their practical conditions from those provided for in Article 3 of the Convention (work in a technical school that is approved and supervised by public authority). The Committee observes that, unlike Article 6 of the Minimum Age Convention, 1973 (No. 138), which explicitly sets out an exception covering work done by persons of at least 14 years of age in undertakings, after consultation with the organisations of employers and workers concerned and on condition that it is an integral part of a programme of training which has been approved by the competent authority and which is carried out mainly or entirely in an enterprise, Convention No. 59 does not provide for such an exception.

The Committee requests the Government to indicate the measures that have been taken or are envisaged to bring its law and practice into conformity with the obligations that it has undertaken.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: China, Ghana, Lebanon, Nigeria, Pakistan, Philippines, Yemen.

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

The Committee notes the report supplied by the Government.

1. Further to its previous comments, the Committee once again draws the Government's attention to the need to adopt legislation to give effect to the provisions of the Convention. It notes that no progress has been made in relation to the measures to be taken in order to give effect to the Convention and, in particular, in relation to the adoption of the draft texts prepared following the direct contacts which took place in 1978 and 1980 with the competent

government departments. In its last report, the Government states that these draft texts have been taken up again and submitted once again to the competent authorities, and that they are following the legislative procedures with a view to their adoption.

The Committee once again hopes that the texts in question will be adopted in the very near future and that the Government will be in a position to supply copies with its next report.

The Committee hopes that the above texts will give effect to the following provisions of the Convention: Article 7, paragraphs 1, 2 and 5 to 8 (construction, use and inspection of scaffolds), Article 8, paragraphs 1(c) and 2(a) and (b) (standards for the 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 the stacking 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 (adequate measures to ensure prompt rescue of persons working in proximity to any place where there is a risk of drowning) and Article 18 (adequate provision to ensure prompt first-aid treatment of all injuries sustained during the course of work).

2. Article 4. The Committee noted in its previous comments the Government's statement in its report received in June 1988 that a group of engineers and technical experts of the Ministry of Public Works is responsible, in collaboration with labour inspectors, for monitoring the application of safety provisions in the building industry; the Committee hoped that the Government would provide more detailed information on the activities undertaken by the group of engineers and technical experts and the labour inspectorate. In the absence of such information, the Committee requests the Government to supply this information in its next report.

3. Article 6. Further to its previous comments, the Committee notes the absence of statistical information in the Government's report relating to the number and classification of accidents occurring in the building industry, whereas the above Article of the Convention provides for the communication of such information to the Office. The Committee trusts that the Government will not fail to supply the required data in its next report.

[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: Bulgaria, Denmark, France, Guatemala, Guinea, Peru, Rwanda, Suriname, Zaire.

Information supplied by Finland, Hungary in answer to a direct request has been noted by the Committee.



**Convention No. 63: Statistics of Wages and Hours of Work, 1938**Algeria (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 1(b) and (c) of the Convention. The Committee notes from the Government's report that statistics of average wages and hours of work are available for 1981, 1982, 1983 and 1984. Please indicate whether these statistics have been published. The Committee hopes that the Government will communicate the data that have been compiled to the Office at the earliest possible date, as provided for in this Article.

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

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

Chile (ratification: 1957)

The Committee notes with interest the information supplied by the Government, particularly regarding the new Integrated Basic System of Wages Statistics which will be put into operation as from 1992.

Article 5, paragraph 2, of the Convention. Further to its previous observation, the Committee notes with interest that the sample frame for enterprises in the construction industry has been improved by covering enterprises with 50 (instead of 100) or more workers.

In its earlier comments, the Committee requested the Government to take measures to include in statistics of average earnings and hours actually worked, workers employed under the Minimum Employment Programmes (PEM), which cannot be considered to be a programme of unemployment assistance. In this connection, the Committee notes the Government's indication that the PEM ceased to exist at the end of 1988.

The Committee is also addressing a direct request to the Government regarding certain points.

Cuba (ratification: 1954)

Further to its previous comments, the Committee notes the Government's statement in the report that the State Committee of Statistics continues to improve the existing statistical system so as to provide better information related to the Convention.

The Committee notes with interest, in particular, that progress has been made as to the collection and publication of separate figures on average earnings and hours of work for mining and for manufacturing, according to the information available at the International Labour Office (Part II, Article 5(3)(a) of the Convention).

It requests the Government to provide information on any measures taken or envisaged to compile and publish statistics of time rates of wages and of normal hours of work in accordance with the provisions of Part III, and to compile and publish statistics of wages and hours of work in agriculture in accordance with Part IV.

The Committee also notes the Government's indication in response to its general observation of 1988 that analyses are under way, jointly with the Central Administration and Trade Unions, with a view to considering the possibility of ratifying Convention No. 160 on labour statistics of 1985, and requests the Government to keep it informed.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Barbados, Canada, Chile, Guatemala, Ireland, Kenya, Myanmar, Portugal, South Africa, Sri Lanka, Syrian Arab Republic, United Republic of Tanzania.

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

**Convention No. 68: Food and Catering (Ships' Crews), 1946**Peru (ratification: 1962)

The Committee notes the communication of the Trade Union of Crews of Petroleum Transoceanica S.A. in which the Union states that Supreme Decree No. 047 DE/MGP of 1990 concerning food and catering on board ship provides a cash equivalent of the food ration for crew who have, for any reason, to feed themselves ashore which is inferior to the protection required under the Convention. In its view the Convention is binding and under article 57 of the Peruvian Constitution cannot be renounced, so that all contrary provisions or agreements such as sections 07105 and 07106 of the Decree are void. It adds that in cases of any doubts as to the scope and contents of any such provisions the interpretation should be in favour of workers.

The Government has replied that the provisions in question do not relate to the obligation in respect of food and catering on board ship, which is fulfilled by the company.

The Committee notes that the Convention requires the promotion by the ILO member State for which it is in force of a proper standard of food and catering for the crews of vessels (Article 1(1)). Legislation on food and catering arrangements should be designed to secure the health and well-being of crews, with food and water supplies which are suitable in respect of quantity, nutritive value, quality and variety (Article 5). The Committee notes also that the competent authority should work in close cooperation with the organisations of shipowners and seafarers in regard to these matters (Article 3). It would be grateful if in its next report the Government would indicate the nature of the difficulties met with and the results of any consultations undertaken. Please also indicate what steps might be taken in this light.

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

Peru (ratification: 1962)

The Committee notes with satisfaction the adoption of the Supreme Decree No. 048-90-DE/MGP of 9 October 1990 approving the Regulations on Ships' Cooks which meet the requirements of Article 4 of the Convention. It hopes that in future reports the Government will include available information on the practical application of the Regulations (Part V of the report form).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Greece, Italy, Netherlands, Norway, Portugal, United Kingdom.

Information supplied by New Zealand, Panama, Poland in answer to a direct request has been noted by the Committee.

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

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

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

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

Egypt (ratification: 1982)

Article 5, paragraph 1, of the Convention. The Committee notes that once again the Government has not transmitted with its report the copy of the provisions in the national legislation which specify that

the medical certificate must be renewed after two years at the most, requested by the Committee in its previous direct requests. The Committee hopes that the Government will not fail to transmit it with its next report.

[The Government is asked to report in detail for the period ending 30 June 1993.]

#### Tunisia (ratification: 1970)

Further to its previous comments, the Committee notes with satisfaction the Order of 20 November 1990 concerning the medical examination of seafarers, supplied by the Government with its report, and whose provisions give effect to Article 4 (nature of the medical examination) and Article 5 (period of validity of the medical certificate) of the Convention.

\* \* \*

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

### **Convention No. 74: Certification of Able Seamen, 1946**

#### Portugal (ratification: 1952)

In its previous observation, following the comments of the General Confederation of Portuguese Workers, the Committee asked for measures to ensure that the requirements as to minimum age, prior sea service in the deck department and the passing of an examination in Article 2 of the Convention are observed in respect of seafarers in fishing vessels (marinheiros - pescadores). The Government now indicates that in practice there is a minimum age requirement of 18 years under section 4 of Decree No. 104 and section 18(2) of Decree No. 251 of 1989, given the need to complete training courses which may not be commenced until the age of 16. At the end of those courses examinations must also be passed under Ordinance No. 1086 of 1990 in compliance with Article 2(5).

The Committee recalls that, for the grant of a certificate in terms of Article 1, Article 2 of the Convention calls for a minimum age of not less than 18 years, a minimum period of sea service in the deck department normally not shorter than 36 months, and the passing of a proficiency examination. It would be glad if the Government would provide further information on the practical application of the arrangements referred to above, and in particular indicate how the prior sea service requirement is met.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Ghana, Guinea-Bissau, Netherlands, Panama, Poland, United States, Yugoslavia.

Information supplied by New Zealand 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)

With reference to its previous comments concerning Articles 2, 3, 4 and 6 of the Convention, the Committee notes that by means of Decree No. 188/91, of 14 May 1991, section 42 of Regulations No. 7676, of 6 October 1951, have been amended. In its current wording, the above section provides that "persons under 16 years of age shall not be admitted to employment unless they have been subjected to a thorough medical examination declaring them fit for the work in which they are to be employed" (subsection 1), "the fitness of young persons for employment shall be subject to an annual medical inspection until they reach the age of 16 years" (subsection 2), "in the case of work which presents a high risk to the health of young persons, the medical examination shall be repeated every three months" (subsection 3).

The Committee notes that Decree No. 188/91 does not give effect to the provisions of the Convention, which requires a medical examination for fitness for work for persons under 18 years of age and medical supervision until the same age. Furthermore, it also requires the repetition of medical examinations for fitness for work in occupations which involve high health risks, where the medical examination for fitness for work and its repetition at intervals shall be required until at least the age of 21 years.

The Committee also notes the draft Labour Code, which was communicated to the ILO for an examination of its conformity with the international labour standards that have been ratified by the Dominican Republic.

Section 252 of the draft Labour Code sets out the obligation to issue a medical certificate certifying the physical fitness of persons under 16 years of age when they work in enterprises of any type.

The Committee hopes that section 252 of the draft Labour Code will be amended by complementing the provisions of Article 2 of the Convention with the requirement for a medical examination for fitness for employment for persons aged 18 years. The Committee also hopes that, when adopting the Labour Code, the other provisions of the Convention (Articles 3, 4 and 6) will be taken into account and that Decree No. 188/91 will be amended accordingly.

#### Greece (ratification: 1981)

The Committee has taken note of the information supplied by the Government in its report. Further to its previous comments, it notes with satisfaction the adoption of Act No. 1837 of 1989 on the

Protection of Minors in Employment and Other Provisions and of Presidential Decree No. 7 of 12 January 1990 on medical examinations of young persons for fitness for heavy, unhealthy or dangerous work, which give effect to the provisions of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Comoros, Ecuador, Iraq, Lebanon, Nicaragua, Paraguay, Portugal.

**Convention No. 78: Medical Examination of Young Persons  
(Non-Industrial Occupations), 1946**

Cameroon (ratification: 1970)

In earlier comments, the Committee referred to the lack of any provisions in the national legislation enabling the Convention to be applied to children and young persons exercising an independent activity - employees or apprentices being covered by the provisions on medical examinations of Order No. 17 of 27 May 1969 respecting child labour. It asks the Government to provide information on the measures taken or under consideration to ensure application of the Convention to this category of children and young persons.

In its reports, the Government has stated on several occasions that it intends to take appropriate measures.

The Committee notes the Government's statement in its last report that in view of the fact that the independent activities of children and young persons are carried on in the informal sector which is outside the control of the labour inspectorate, it will not be possible to envisage applying the Convention to this sector until some degree of control is exercised over the sector.

While noting the difficulties referred to by the Government, the Committee points out that children exercising independent activities fall within the scope of the Convention (Article 1, paragraph 1). In order to ensure that the Convention is fully applied, it asks the Government to take the necessary measures to give effect to the provisions of the Convention concerning children and young persons and to provide information on progress made in this respect.

The Committee asks the Government to take into consideration the Medical Examination of Young Persons Recommendation (No. 79), and particularly article 14 on methods of enforcement of regular medical examinations for fitness for employment of children and young persons engaged, either on their own account or on account of their parents, in itinerant trading or any other occupation carried on in the streets or in places to which the public have access.

Greece (ratification: 1981)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Act No. 1837 of 1989 on the Protection of Minors in Employment and Other Provisions and of Presidential Decree No. 7 of 12 January 1990 on medical examinations of young persons for fitness for heavy, unhealthy or dangerous work, which give effect to most of the provisions of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Comoros, Ecuador, Greece, Iraq, Lebanon, Nicaragua, Paraguay, Portugal.

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

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

**Convention No. 81: Labour Inspection, 1947**Argentina (ratification: 1955)

Article 6 of the Convention. Further to its previous comments, the Committee refers to the observations of the Argentine Association of Labour Inspection concerning problems in guaranteeing the stability of employment of inspection staff. The Committee recalls that inspection staff should enjoy a status and conditions of service assuring stability of employment and independence of changes of government and improper external influences. It hopes the Government will give details of how these requirements are met in practice.

Articles 20 and 21. The Committee notes that no annual report on the activities of the inspection services has been received by the ILO since that for 1984, produced following a direct contacts mission. The Committee also notes that further technical cooperation has been provided by the ILO in relation to labour inspection. In its comments, the Committee has for years expressed its hope that certain reorganisations and legislative initiatives would remedy the difficulty posed by the conduct of some inspections by provincial authorities and make possible publication of the necessary annual report by the federal authorities. In the absence of the practical information called for by the Convention, it is impossible to evaluate the application of the Convention or to determine what further measures need to be taken in order to ensure that workplaces are inspected as often and as thoroughly as necessary in compliance with Article 16. The Committee would be grateful if the Government would indicate the measures proposed in this regard.

A number of other comments have been made directly to the Government.

Australia (ratification: 1975)

Further to previous comments over several years, the Committee notes that the Government is investigating the measures to be adopted to enable New South Wales to comply with Article 15(a) of the Convention, by prohibiting labour inspectors from having any direct or indirect interest in the undertakings under their supervision. It hopes the necessary steps will be taken shortly.

Bahamas (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:

With reference to its previous comments, the Committee notes the Government's statement to the effect that the Convention is applied by custom and practice and that no progress has yet been made to adopt legislative measures to give effect to its provisions. The Committee trusts that appropriate legislation will be adopted in the near future.

Articles 20 and 21 of the Convention. The Committee notes that no report on the activities of the inspection services has yet been drawn up. Recalling the importance that it attaches to annual inspection reports, the Committee requests the Government to take the necessary measures to ensure that these reports, containing information on the subjects set out in Article 21, are published and transmitted to the ILO within the time-limits set forth in Article 20.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

Bahrain (ratification: 1981)

Articles 20 and 21 of the Convention. Further to its previous comments, the Committee notes with satisfaction that a report on the work of the inspection services for the period October 1989 to September 1990 was completed and published by the Government. The Committee is again addressing a direct request to the Government on certain other matters.

Bangladesh (ratification: 1972)

Articles 20 and 21 of the Convention. The Committee notes with interest the useful information provided by the Government in the Annual Report for the Year 1988 of the Department of Inspection for Factories and Establishments, the first received for some time, and



that the report for 1989 has been under compilation. It hopes that reports of this kind will be published and sent within the time-limits required by the Convention.

The Committee is also addressing comments on the application of the Convention directly to the Government.

Bolivia (ratification: 1973)

Further to its previous comments, the Committee notes the report transmitted by the Government and the information supplied to the Conference Committee in 1990.

Article 5 of the Convention. The Committee has taken note of the indications as to coordination between the labour inspection services and other services such as medical, social security and police services and the existing communication between employers' and workers' organisations. The Committee would emphasise the importance of collaboration between officials of the labour inspectorate and employers and workers or their organisations and it would be grateful if the Government would inform it of the forms and mechanisms through which cooperation with those services and organisations is maintained in practice.

Article 6. The Committee has taken note of the Labour Inspectorate Regulations (Ministerial Resolution No. 346/87 of 1987), a copy of which has been sent to the ILO and which provides inter alia for the guarantee to inspectors of the stability of employment and independence required by the Convention. In that connection, whereas in the information supplied at the 1990 Conference it was reported that the Regulations had come into force in February 1990, the Government states in its report that the Regulations have not yet come into force for administrative reasons. The Committee asks the Government to clarify this question and to supply detailed information on the difficulties encountered in applying this Article of the Convention.

Articles 10, 11, 16, 20 and 21. The Committee takes note of the very brief information given in the report, which refers to a small wage increase granted to the inspectors and certain new inspectorate premises in the city of La Paz. The Government also states that the annual inspection reports will shortly be published and distributed in keeping with the resources of the sectoral budget.

The Committee understands the problems mentioned by the Government in connection with the disastrous situation of the economy and the consequences of a severe programme of structural adjustment adopted in 1985. On the other hand, it points out once more that the annual reports are essential in order to evaluate the practical results of the inspectorate's activities: this is the only way to decide on the right measures to take in order to ensure that inspection visits are carried out, in accordance with the Convention, as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions; and that the number of inspectors and the resources supplied to them are sufficient. The Committee expresses the hope that the Government will supply

information about any development in the application of this aspect of the Convention.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

Brazil (ratification: 1989)

The Committee has noted the information in the Government's first report on the Convention. It has also noted the observations of the Gaucha Association of Labour Inspectors (AGITRA), concerning difficulties encountered by the labour inspection service in regard to various aspects of the Convention. AGITRA indicates that the activities of the labour inspectorate have decreased since 1990, particularly since many posts of labour assessors, doctors and engineers were abolished. This has meant that labour inspectors have had to work in precarious conditions, contrary to the Convention. Inspectors have thus not been able to combat as they would wish serious violations of labour law in respect of slavery and forced labour (including child labour); and withholding of wages and other benefits due to employees (such as adequate food and lodging). This in turn means that, particularly in the present unstable economic situation in the country, the number of violations of labour legislation is increasing dramatically.

The Committee recalls the requirements of the Convention as regards the function of labour inspectors in securing the enforcement of the legal provisions relating to conditions of work and the protection of workers, such as provisions relating to hours, wages, safety, health and welfare, and the employment of children and young persons (Article 3(1)(a)); the need for inspection staff to enjoy a status and conditions of service which guarantee them the necessary stability of employment and independence (Article 6); the need to associate medical, engineering and other specialists in the work of inspection (Article 9); and the need to ensure that the number and material conditions of labour inspectors are sufficient to enable workplaces to be inspected as often and as thoroughly as necessary to ensure the effective application of relevant legal provisions (Articles 10, 11 and 16).

In respect of the last point, the Committee notes from the Government's report, that it recognises difficulties in complying with the Convention, owing to the immensity of the national territory and the shortage of inspection personnel. The Committee refers also to its observations on Conventions Nos. 29, 95 and 105. It hopes the Government will supply full information on the aspects of the present Convention raised by AGITRA. The Committee is raising certain other points in a direct request.

Cameroon (ratification: 1962)

The Committee notes the information provided by the Government.

Article 13, paragraph 2(b), of the Convention. For many years the Committee has been asking the Government to take the necessary

measures to give effect to this Article of the Convention, which requires that labour inspectors be empowered to make or have made orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers. Since 1978, the Government has been indicating that the necessary measures were being taken to amend the law. The Committee hopes that the Government will soon be able to indicate that the necessary amendment has been made and brought into force.

Articles 16, 20 and 21. The Committee notes that no annual inspection reports have been provided since those for 1978 and 1979. It recalls that such reports are an essential means of determining how the inspection system works in practice and whether it is ensured that workplaces are inspected as often and as thoroughly as necessary. It hopes that the Government will send annual reports on the activities of the inspection service to the Office within the time-limits set by the Convention and that these reports will include all the information required by the Convention.

Central African Republic (ratification: 1964)

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

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.

Chad (ratification: 1965)

Articles 10, 11 and 16 of the Convention. The Committee notes that shortages of material means and qualified staff persist in hampering the application of these Articles of the Convention and that there has been no resolution of the difficulties commented upon by the Committee for several years. The Committee recalls the requirements

as to an adequate number of inspectors with all necessary facilities (especially transport). It asks the Government to indicate in its next report any measures whatsoever taken to make the most out of the resources available, if not to increase resources.

Article 12, paragraph 2, and Article 13, paragraph 2(b). Since 1968 the Committee has been drawing the Government's attention to the need to empower inspectors, on the one hand, to decide whether or not they should notify the employer of their presence at the workplace and, on the other, to make or have made orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers. In 1990, the Committee noted that a committee had been established to revise the Labour and Social Welfare Code with a view to bringing national legislation into conformity with the Convention, and that the Code had been revised with the assistance of the ILO. The Committee now notes that the revised Code has not yet been adopted, although it is being given priority. It also notes the indication in the Government's most recent report, repeating information provided in 1971, that labour inspectors may make orders with immediate executory force. Since 1972, the Committee has observed that section 202 of the Labour and Social Welfare Code, as applied, empowers the labour inspector to give an employer no less than two days to remedy a situation, even when it is dangerous to the health or safety of the workers in cases of extreme urgency, and that this is not sufficient to deal with imminent dangers, such as a risk of a fall of earth, asphyxia or explosion, which may materialise before the minimum time-limit of two days has expired. The Committee is bound, once again, to express the hope that the Government will soon be able to report that the necessary changes to legislation have been made. It would in the meantime be grateful if the Government would provide information on the manner in which the existing provisions are applied in practice.

Articles 20 and 21. In reply to the Committee's earlier comments the Government states that the annual reports on inspection are being completed. The Committee hopes that the Government will ensure that, in future, annual inspection reports are drawn up containing information on all the subjects listed under Article 21. It trusts that these reports will be published and communicated to the ILO within the period fixed in Article 20.

#### Colombia (ratification: 1967)

Articles 16, 20 and 21 of the Convention. With reference to its previous comments, the Committee notes the labour statistics provided in Bulletin No. 33-34 of the Ministry of Labour and Social Security, which covers 1988 but only partially responds to the requirements of the Convention. The Bulletin indicates that the number of inspection visits made decreased in 1988, and most were in the commercial sector (excluded by Colombia from its acceptance of the Convention). The number of violations of legislation reported was also lower.

The Committee recalls the Convention's requirement that workplaces should be inspected as often and as thoroughly as necessary; and the importance of compiling annual reports on the

activities of the inspection services containing detailed information on all the subjects required by the Convention, so that the manner in which the Convention is being applied can be appreciated. It once again expresses the hope that remedial measures will be taken by the Government.

The Committee is also addressing a direct request to the Government concerning application of Articles 3, paragraph 2; 5(a); 6 and 11(b); 7; 14; 15(c).

Dominican Republic (ratification: 1953)

1. Further to its previous observations, the Committee has noted the information concerning labour inspections provided by the Government in its report, as well as in the Conference Committee in 1990 and 1991. In particular, it notes with interest the document concerning restructuring of the inspectorate prepared with the cooperation of the regional labour administration centre of the ILO. At the same time, it notes that the proposed revision of the Labour Code's provisions on labour administration is not yet ready for submission to the Congress; and that, pending the allocation of funds, the Civil Service Act (No. 14-91) is not applicable to the labour inspectorate. In view of the concern expressed in the Conference Committee at the failure since 1953 to take the necessary legislative steps to apply the Convention, the Committee once again urges the Government to ensure that the organisation, status and functions of the labour inspectorate are duly legislated to enable compliance in particular with Articles 4, 5 and 6 of the Convention.

2. The Committee notes that Circular No. 17/91 instructs inspectors to take immediate executory measures in accordance with the legislation and international provisions. It recalls the earlier more formal legislation drafted in this respect and would be grateful if the Government would clarify whether inspectors are now fully empowered to deal with the cases of imminent danger foreseen in Article 13(2)(b) or (3).

3. The Committee again recalls that there is no provision for the inspectorate to be notified of occupational diseases. Although the Government expresses no intention in this regard, the Committee hopes steps will now be taken to ensure the observance of Article 14.

4. The Committee notes the summary information on inspection activities from 1983 to 1991 provided in the report. This unfortunately does not enable an appreciation of the manner in which the Convention is applied, with regard more especially to the adequacy of inspection staff (Article 10) and the regularity and thoroughness of inspection visits throughout the country (Article 16). Nor is there any indication that the information has been published. The Committee once more recalls the importance of regular compilation and publication of inspection reports, including details of inspection activities, in accordance with Articles 20 and 21. It hopes that, perhaps with the further technical cooperation of the Office to which the Government refers, the technical and material difficulties mentioned will be overcome; and that the Government will provide full details.

Egypt (ratification: 1956)

In comments made over many years, the Committee has drawn attention to the need to compile, publish and transmit to the ILO each year inspection reports containing all the information required by the Convention (Articles 20 and 21). Such reports, duly prepared, are essential at both the national and international levels in order to assess whether workplaces are being inspected as often and as thoroughly as necessary, in accordance with Article 16. The Committee is again addressing a direct request to the Government concerning the implementation of these Articles.

France (ratification: 1950)

The Committee notes that the Government's report has not been received. It hopes that a report under article 22 of the Constitution will be supplied for examination at its next session, and that the Government will respond to observations submitted by the French Democratic Confederation of Labour (CFDT) and the General Confederation of Labour (Union of Social Affairs/Federation of Public Service/Labour Inspectorate for Transport) over the past two years. The Committee is once more directly requesting the Government to provide information concerning the details of these observations.

Guinea (ratification: 1959)

Articles 16, 20 and 21 of the Convention. Further to comments it has been making for many years, the Committee notes with regret that the Office has once again not received an annual report on the activities of the inspection services. The Committee recalls the importance of annual inspection reports as an essential means of obtaining evidence of the activities of the inspection services, and showing whether workplaces are being inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions. The Committee understands that the ILO has extended certain technical cooperation in this area and expresses its hope that the necessary measures will be taken to ensure that an annual report on the activities of the inspection service with all the necessary information provided therein will soon be provided. The Committee is addressing a request for additional information directly to the Government.

Haiti (ratification: 1952)

The Committee notes the Government's report, which was received in early 1991.

Articles 10, 11 and 16 of the Convention. Further to its previous comments, the Government provided information on the staff of the labour inspection service, the number of workplaces liable to inspection and the number of workplaces inspected during the period

covered by the report. In this regard, the Committee notes that although the number of inspectors has increased (from 18 in 1986 to 32 in 1988), it is considered too small in relation to the number of establishments and the size of some of them; a survey is currently being conducted to determine the number of establishments throughout the country; and the number of establishments visited in 1988 was 432. The Committee hopes the Government will continue to describe measures taken or envisaged to make sure the inspection service is able to monitor the application of the relevant legal provisions.

Article 14. Further to its previous comments concerning the possibility that reform of the Occupational Accidents, Sickness and Maternity Insurance Office (OFATMA) would lead to occupational diseases being notified to the labour inspection services, the Committee notes the Government's indication that with the installation of the new Government elected on 16 December 1986 the reform had not yet become effective. It hopes the Government will indicate any developments with a view to giving effect to this Article of the Convention.

Articles 20 and 21. Further to its previous comment, the Committee notes that the Government has not published an annual report on the activities of the inspection services but has provided in its report on application of the Convention some of the necessary information. The Government indicated that it would do the necessary to ensure that reports are published and sent to the ILO within the time-limits. The Committee asks that the current Government indicate what measures will be taken and hopes once again that the necessary report will soon be published.

#### Iraq (ratification: 1951)

The Committee notes that the Government's report has not been received. It has nevertheless taken note of the annual inspection report for 1989. It hopes that a report on the application of the Convention will be supplied; that the annual inspection reports will in future be published and transmitted in accordance with Article 20 of the Convention; and that they will include the information required under (e) (statistics on violations and sanctions) and (g) (occupational diseases) of Article 21.

#### Italy (ratification: 1952)

1. Article 5 of the Convention. In earlier comments, the Committee referred to problems of coordination between the labour inspectorate and local health authorities, the latter having been given responsibilities relating to safety and health at work. It now notes that under legislation before the Senate many of the responsibilities in question will be shifted back to the labour inspectorate, and that this will help coordinate inspections. This appears also to answer the point made by the Petrochemical and Allied Trades Union (ASAP) that decentralising labour inspection led to uneven results: agreements between the social partners could not - in



the absence of a reliable national scheme of reference - fill these gaps. The Committee hopes that the improvements looked for will follow and that the Government will supply full details.

2. Articles 20 and 21. Further to its previous requests, the Committee has noted the contents of the annual report on labour inspection for 1990, although that for 1989 was not received. It hopes that future annual reports will be published and communicated to the Office as required by the Convention. It hopes that those reports will include all available information on the matters listed in Article 21, including industrial accidents and occupational diseases.

3. Article 3 (2). The Committee notes that section 14 of Act No. 146 of 1990 imposes on the labour inspectorate responsibilities for supervising certain strike balloting. It trusts that this duty will not interfere with the effective discharge of inspectors' primary duties or prejudice the authority and impartiality necessary to inspectors in their relations with employers and workers. It hopes the Government will indicate any practical difficulties encountered in this respect.

4. Articles 16, 17 and 18. The Committee has noted the comments of the Independent Bank-workers Union (FABI), as to problems in the application and inspection of provisions on working hours and overtime in Salerno. It notes also the information subsequently provided by the Government as to the steps taken by the labour inspectorate in that respect. The Committee recalls the labour inspectorate's primary role in ensuring the effective application of relevant legal provisions and hopes the Government will continue to supply full details of any problems arising in this connection.

5. The Committee has noted also the comments of the General Confederation of Commerce, Tourism and Services (CONFCOMMERCIO).

#### Jamaica (ratification: 1962)

The Committee notes the discussion which took place in the Conference Committee in 1990. In particular, the Committee notes that the Government's representative said that the next report on the application of the Convention would show marked improvement in regard to the application of Articles 20 and 21 of the Convention, concerning annual inspection reports. The Committee is making a direct request to the Government concerning application of those Articles.

Article 13, paragraphs 2(b) and 3. For many years the Committee has been commenting that there are no provisions in national legislation empowering factory inspectors to require measures with immediate executive force in the event of imminent danger to the health and safety of workers. In the Conference Committee discussion in 1990, the Government representative stated that legislative amendments were being pursued through the tripartite Labour Advisory Committee. The Committee now notes the Government's indication that since its last report no change has occurred in the situation. The Committee once again expresses its hope that the necessary measures will soon be taken.

Article 14. In its last observation, the Committee noted that the question of a requirement of notification of occupational diseases



was being pursued by the competent authority. The Committee now notes that there has been no change in this respect. It again expresses the hope that progress will be made.

[The Government is asked to supply full particulars to the Conference at its 79th Session and to report in detail for the period ending 30 June 1992.]

Jordan (ratification: 1969)

The Committee notes the Government's reply to its previous observation concerning Articles 12, 13 and 14 of the Convention, that the draft labour code which will deal with these matters is being considered by the Council of Ministers. It hopes the necessary measures will be taken very shortly, and that they will ensure amongst other things that:

- (i) the power to make or have made orders with immediate executory force in the event of imminent danger is conferred directly on labour inspectors (Article 13); and
- (ii) there is an obligation to notify the inspectorate of industrial accidents and occupational diseases (Article 14).

As regards Articles 20 and 21, the Committee hopes that inspection reports covering all the matters listed in the Convention will be published and transmitted within the time-limits laid down.

Libyan Arab Jamahiriya (ratification: 1971)

Articles 20 and 21 of the Convention. The Committee notes the discussion which took place in the Conference Committee in 1991. The Government representative referred to administrative difficulties, but said that the necessary information had been collected: its intention was to report within the prescribed time-limits. The Conference Committee expressed great concern that for several years the Government had not sent annual inspection reports as required by the Convention.

The Committee notes once more that the Government's reports on the activities of the labour inspection services have not been received. In the absence also of a report in the form approved by the Governing Body on the Convention, the Committee is unable to appreciate the manner in which the Convention is applied. The Committee once more expresses the hope that the Government will ensure that the Convention is fully observed, and that annual inspection reports containing information on the work of the labour inspection services, including statistics on the subjects listed under Article 21, will be published and transmitted in accordance with Article 20.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

Morocco (ratification: 1958)

Further to its previous general observation, the Committee notes the observations made by the General Union of Workers of Morocco and the Democratic Confederation of Labour (CDT) concerning application of the Convention. These trade unions allege the following:

(a) Although all sectors of the economy are in law subject to labour legislation and inspection, traditional industry has been effectively excluded from inspection activities, as is evidenced by the widespread employment of children in carpet factories. Government has been lax in conducting inspection activities because of a lack of will to enforce protective labour legislation and a desire to promote foreign investment (see Article 2 of the Convention).

(b) No measures are taken by inspectors to bring to the notice of the competent authority defects or abuses not specifically covered by existing legislation (Article 3(1)(c)).

(c) Inspectors are distracted from their function of inspecting workplaces by being called upon to resolve individual and collective disputes which should be referred to conciliation and arbitration committees under Dahir of 19 January 1946 (Article 3(2)).

(d) As there is no effective collaboration between the inspection and the judicial systems and no system for keeping case statistics, inspectors are not reporting cases of violations. It is thus not known how far the labour legislation is in practice observed (Article 17).

(e) There is no effective regulation of the relations between employers' and workers' organisations and the labour inspectorate, so that no use is made of these organisations to assist the inspectorate enforce labour laws (Article 5).

(f) The terms of employment of inspectors do not assure their independence and stability in employment, but permit employers to exercise influence on the performance of their tasks (Articles 6 and 18).

(g) Labour inspectors are ill-trained (Article 7(3)).

(h) The strength of the labour inspection service is unreported and indeterminable, and material supports for their work inappropriate and insufficient (Articles 10 and 11).

(i) Legislation is inadequate to ensure inspectors may take the necessary remedial steps (Article 13).

(j) Sanctions for failure to conform to the requirements of law are ineffective (Article 18).

(k) Since 1987 there has been no annual report of the inspection service (Article 20).

In a later communication, the CDT has referred to a serious deterioration in observance of the labour legislation, especially as regards safety and health and working minors.

The Committee notes that the information supplied by the Government refers to activities of the Ministry of Employment in general up to 1988 but does not include the information requested in the report form approved by the Governing Body or, in particular, the details referred to in Article 21. It also notes that, although contact has been made by the ILO with the Government with a view to providing technical cooperation in relation to labour inspection, this

has not yet come to fruition. The Committee hopes progress will be made in this respect, and it hopes that a detailed report including the Government's response to the questions raised above will soon be supplied.

Mozambique (ratification: 1977)

Further to its previous comments, the Committee notes with satisfaction that legal effect has been given to the following provisions of the Convention: Article 12(1)(c)(iv) (the power of inspectors to have samples of substances analysed is included in Ministerial Order No. 17/90, section 33(2)(f)); Article 14 (inspectors have to be notified of industrial accidents and occupational diseases under Decree No. 32/89, section 12, and Order No. 17/90, section 4(3)(e)); Article 15(c) (the requirement of confidentiality is contained in Decree No. 32/89, section 7); and Article 16 (the frequency of inspection visits is laid down in Order No. 17/90, section 16).

The Committee has also noted with interest the 1990 annual report on inspection activities (Articles 20 and 21). It is again raising certain matters in a direct request.

Nigeria (ratification: 1960)

Articles 20 and 21 of the Convention. Further to its previous observations, the Committee notes the statistical information provided in the Government's report and the Annual Report of the Federal Ministry of Employment, Labour and Productivity for 1989. However, this does not seem to give a full picture of the application of the Convention as required: in particular the statistics contained in the 1989 Annual Report do not cover workplaces liable to inspection and the number of workers employed therein, in conformity with Article 21(c), and refer only indirectly to laws and regulations relevant to the work of the inspection service.

The Committee has also noted that on the Government's invitation the ILO organised a tripartite mission to evaluate its labour inspection system, which took place in 1991. It hopes that the Government's next report will include full information on all measures taken or proposed in the light of the mission, especially in relation to the preparation and publication of an annual inspection report in accordance with the Convention and to the other matters raised in a direct request.

Pakistan (ratification: 1953)

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

Articles 12, 13, 14 and 15, of the Convention. Further to its previous observation, the Committee notes that, with a view to giving effect to the provisions of these Articles of the Convention, the amendments to the Factories Act, 1934, the Shops and Establishments Ordinance, 1969, the Payment of Wages Act, 1936, and the Road Transport Workers Ordinance, 1961, are under active consideration by the Government. The Committee trusts that the legislation in question will be adopted in the near future, and that the Government will indicate the progress achieved in the next report.

Articles 20 and 21. The Committee notes that the consolidated annual report on the working of labour laws for 1987, which was received in December 1991, does not include information on the staff of the labour inspection service (Article 21(b)). It hopes that, in future, inspection reports will be published and transmitted to the ILO within the time-limits set in Article 20 and that they will contain all the information provided for in Article 21.

#### Paraguay (ratification: 1967)

With reference to its previous observations, the Committee notes the Government's report and the inspection report for 1990.

Article 13 of the Convention. The Committee once again recalls that labour inspectors do not have the powers provided for in this Article. The Committee wishes to draw the Government's attention to the need to take steps to enable inspectors to make or have made orders requiring any appropriate measures to eliminate risks to the health or safety of workers. It hopes that the Government will report on any progress made in this respect.

Articles 10, 16, 20 and 21. The Committee takes note of the incomplete information contained in the inspection report. The Committee recalls the importance it attaches to the publication of annual inspection reports, which should contain all the information referred to in Article 21. The purpose of these reports is to facilitate an assessment of the problems and practical results of inspection activities - for example, the adequacy of the strength of the inspectorate, and the guarantee that inspection visits are carried out with the necessary frequency and thoroughness - which, in turn, should enable the authorities to draw useful conclusions for the future application of the Convention. The Committee trusts that the Government will publish annual inspection reports, in accordance with the assurances in its report, which take account of all the points listed in the Convention. It hopes that the next report will contain full information in this respect.

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

#### Peru (ratification: 1960)

Articles 10, 16, 20 and 21 of the Convention. Further to its previous comments, the Committee notes the brief information provided

concerning numbers of inspection visits and fines imposed in 1990 (Article 21(d) and (e)). It recalls that the preparation and publication of regular inspection reports as required by the Convention are an essential means of determining the manner in which it is being applied, and in particular whether workplaces are inspected as often and as thoroughly as necessary, and enabling necessary corrective measures to be taken. It hopes, the Government will ensure that the requirements of the Convention are fully observed and that it will supply full details. The Government may wish in this connection to keep in touch with the competent technical services of the ILO.

Rwanda (ratification: 1980)

Article 15(c) of the Convention. With reference to its previous comments, the Committee notes with satisfaction Circular No. 5466/06.18/033/90 dated 13 November 1990, reminding the labour inspectors of their duty to maintain professional secrecy.

Senegal (ratification: 1962)

Articles 20 and 21 of the Convention. Further to its previous observations, the Committee recalls the data and analysis contained in the Note on labour statistics for 1988. It notes with interest the Government's statement that the necessary steps will be taken to include statistics of occupational diseases in the Note in future. The Committee hopes that the Government will shortly provide copies of the annual Notes from 1988 onwards, in accordance with Article 20 of the Convention. It also asks the Government to indicate the form in which the Notes are published.

Articles 3, paragraph 2, and 16. The Committee notes that only 15 per cent of the establishments registered in 1986 were inspected in 1988. For Dakar, the corresponding figure was 7.9 per cent. It would be grateful if the Government would indicate the measures taken or envisaged to ensure that workplaces are inspected as often and as thoroughly as is necessary, and that other tasks entrusted to labour inspectors do not hamper the performance of their main duties.

Spain (ratification: 1960)

Further to its previous comments, the Committee notes the fresh observations made by the General Union of Workers (UGT) and the Trade Union Confederation of Workers' Commissions (CC.OO.). The UGT comments that the two branches of the labour inspectorate (comprising labour inspectors proper and labour controllers) are insufficiently staffed and lack both the legal authority and the resources to enable compliance with the requirements of Articles 1, 3(1) and 16 of the Convention. Provisions dealing with overtime, for example, are said to be inadequately enforced. The CC.OO. also notes that the inability of labour controllers to enforce relevant provisions directly has

weakened the operations of the labour inspectorate as a whole. The CC.00. states that there is little collaboration between officials of the labour inspectorate and workers' organisations (Article 5(b)), and that because of scarce personnel and material resources workplaces are not inspected frequently enough to ensure the effective application of relevant legal provisions (Article 16). It considers that the inability of labour inspection officials to determine which clauses of collective agreements are in legal doctrine "normative" and which are "obligational" further inhibits enforcement action being taken (Article 27).

The Government has described the involvement of workers' representatives in inspection proceedings under section 15 of Act No. 8/1988. It draws attention to an increase in inspection visits and sanctions proposed in 1989, whilst considering that other forms of control than visits may be equally effective. It stresses the need to ensure that the inspectorate has full evidence of the facts of each case in order to fulfil its functions.

The Committee recalls that the workers' organisations have expressed dissatisfaction at the manner in which the Convention is applied for several years. It notes the explanations given and further requests the Government to provide full information concerning the following matters in particular:

- (a) steps taken so that the resources of the labour inspectorate are fully utilised and workplaces are in accordance with the Convention inspected as often and as thoroughly as is necessary to ensure the effective application of all the relevant legal provisions; and so that there is the necessary collaboration between officials of the labour inspectorate and employers' and workers' organisations in their work;
- (b) measures taken or envisaged to ensure that the authority of the labour inspectorate to enforce all relevant legal provisions, including those in collective agreements, is fully exercised; and
- (c) any measures contemplated to provide labour controllers with the enforcement powers of labour inspectors proper.

#### Sri Lanka (ratification: 1956)

The Committee notes the brief information provided in the Government's report and the further observations of the Ceylon Workers' Congress (CWC).

Articles 3(2), 6, 7(3), 10, 11 and 16 of the Convention. In its previous comment, the Committee noted the views of the CWC and the Ceylon Federation of Trade Unions that the staff of the inspection services should be increased so that they could properly perform their tasks. In its most recent report, the Government indicated that the staff deployed on labour inspection work had been increased by nearly 100. The CWC considers this inadequate. The CWC also raises the problem of labour inspectors functioning as conciliators.

The Committee recalls the importance of conditions of service for inspection staff which guarantee them stability of employment and independence of improper external influences, as well as the need for adequate training. It would be grateful if the Government would

indicate any further measures taken or envisaged to ensure, not only that the number of inspectors is sufficient to secure the effective discharge of the duties of the inspection service, but also that workplaces liable to inspection are inspected as often and as thoroughly as necessary. The Government is asked to provide information on any measures taken or contemplated - perhaps with the cooperation of the ILO - to improve the implementation of the Convention.

In the light of the additional comments of the CWC, the Committee would be grateful if the Government would describe the operation of labour inspection at the State Mining and Minerals Corporation and the State Gem Corporation.

Article 14. With reference to its previous comments, the Committee notes that no information has been provided concerning progress in notifying cases of occupational diseases as provided for in section 63 of the Factories Ordinance. It previously noted that measures were being taken to coordinate the work of the various departments of the Ministries of Health and Labour, with a view to compiling information on occupational diseases and notifying the Commissioner of Labour. It hopes that such measures will make it possible to give full effect to this Article of the Convention.

Article 20. The Committee notes that the reports of the Department of Labour since 1987 have not reached the ILO. It trusts that the reports will be supplied and in future the time-limits set forth in this Article of the Convention for the transmission of reports will be respected.

#### Sudan (ratification: 1970)

Further to its previous comments, the Committee notes that no information is available as to the manner in which the Convention is being applied. It hopes the Government will endeavour to provide a report in the form approved by the Governing Body. In doing this, it might care to consider the results of relevant technical cooperation received and any further steps which might be taken in that light. The Committee is again referring to certain questions in a direct request.

#### Suriname (ratification: 1976)

Further to its previous comments, the Committee notes once again that there has been no change in the application of Articles 14 (notification of cases of occupational diseases to the labour inspectorate) and 15(b) (obligation of inspectors not to reveal secrets) and that national legislation does not address these important requirements of the Convention. The Committee asks the Government to provide an indication of what action it is taking to remedy this problem and hopes that the necessary measures will soon be taken.

Articles 20 and 21. The Committee notes the Government's statement that the annual report of the labour inspection for the year

1988 will be forwarded as soon as possible. It notes, however, that the most recent report received was for 1987, which failed to include a number of the types of information required by Article 21. The Committee hopes that the necessary measures will be taken to ensure that annual reports of the inspection services, containing all the necessary information, are published and sent to the ILO within the time-limits required.

Syrian Arab Republic (ratification: 1960)

In comments made over several years, the Committee has drawn attention to the need to compile, publish and transmit to the ILO each year inspection reports containing all the information required by the Convention (Articles 20 and 21). Such reports, duly prepared, are essential at both the national and international levels in order to assess whether workplaces are being inspected as often and as thoroughly as necessary, in accordance with Article 16. The Committee is again addressing a direct request to the Government concerning the implementation of these Articles.

Uganda (ratification: 1963)

The Committee notes the limited information in the Government's report and in the annual inspection report for 1980 received in June 1990.

Articles 1, 16, 20 and 21 of the Convention. The Committee notes that the Government continues to have considerable difficulty in preparing and publishing annual inspection reports as required by the Convention. Such reports are an essential means of determining how the system of labour inspection is currently operating in the country and what measures are called for to improve it. The Committee notes from the information communicated by the Government to the Conference in 1990 that a multidisciplinary ILO/JASPA advisory mission visited the country in 1988 and proposed activities to strengthen the labour inspectorate. The Committee would be grateful if the Government would indicate what follow-up has been given to this proposal, and it would hope that the appropriate technical cooperation with the Office might soon be provided with the aim of improving application of the Convention. It hopes in the meantime that the Government will provide all available information on steps taken currently to ensure that workplaces are inspected as often and as thoroughly as necessary to ensure the implementation of labour legislation.

Zaire (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 notes 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: Angola, Argentina, Australia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Belize, Brazil, Bulgaria, Burundi, Cape Verde, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Djibouti, Dominica, Ecuador, Egypt, Finland, France, Gabon, Germany, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Ireland, Jamaica, Kenya, Kuwait, Lebanon, Madagascar, Malaysia, Mali, Malta, Mozambique, Netherlands, Niger, Nigeria, Portugal, Qatar, Romania, Rwanda, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Singapore, Sudan, Swaziland, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Tunisia, Turkey, United Arab Emirates, Uruguay, Zaire.

#### **Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947**

Requests regarding certain points are being addressed directly to the following States: Benin, Trinidad and Tobago.

#### **Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948**

##### General observation

In its comments on the application of this Convention in various countries, the Committee has drawn attention to certain problems concerning the right of workers and employers, without distinction whatsoever, to establish organisations of their own choosing without previous authorisation, and the right of workers' and employers' organisations to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes without any interference from the public authorities.

In a previous general observation (see 1981 Report of the Committee, ILC, 67th Session, 1981, Report III, Part 4A, p. 95) the Committee had already pointed out certain problems in this respect. In order further to examine these issues, the Committee requests the Governments, in their reports on the application of the Convention, as well as the employers' and workers' organisations in their observations, to pay particular attention to the following points:

- state whether any special and/or separate statutory or regulatory provisions exist concerning the establishment of organisations of workers on the one hand, and of employers, on the other;
- indicate the categories of persons (other than members of the armed forces and the police) from whom the right to establish and join such organisations could be withheld, giving, if appropriate, the reasons therefor;
- specify the requirements for eligibility for trade union office in terms of age, sex, nationality and membership of an occupation;
- indicate whether machinery exists for the settlement of collective labour disputes. If so, please describe its characteristics. If not, please explain why; and
- indicate also whether workers and employers enjoy the right to strike and the right of lockout. If so, please specify the conditions in which these rights are exercised. If not, please explain why.

Antigua and Barbuda (ratification: 1983)

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

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 amendments and to keep it informed of any new development in this respect.

The Committee expresses once again its hope that the Government will take the necessary action in the very near future.

Burkina Faso (ratification: 1960)

The Committee takes note of the information communicated to the Conference Committee in 1991, as well as the report of the Government.

1. Requirement for public servants to respect the revolutionary order. With reference to its previous comment, the Committee notes that, according to the Government's report, the requirement for public servants to respect the revolutionary order has been more theoretical than practical in reality as no public servant has been bothered or penalised for breaches of this requirement.

The Committee considers, however, that the existence in national legislation of a provision which might impair the right to express thoughts freely as an integral part of the freedom of association which employers' and workers' organisations should enjoy, is liable to restrict the free exercise of the trade union rights guaranteed by Article 3 of the Convention, even if breaches of the provision in question have so far never been penalised.

The Committee would therefore be grateful if the Government would repeal or amend the provisions of Zatu No. AN VI-008/FP/TRAV of 26 October 1988 which concern the requirement for public servants to respect the revolutionary order, and the provisions laying down penalties for failing to meet this requirement, and to inform it of any measures envisaged in this respect (sections 6, 7, 9 and 36).

2. The role of Revolutionary Committees' (CR) workers or officials. The Committee also notes that, according to the Government's report, the Revolutionary Committees' (CR) workers or officials have a mission fundamentally different from those of the previous popular structure in the sense that they have more of an educational role, complementary to that of the trade union with which they cooperate when the defence of workers' rights is at issue. The Government concludes that freedom of expression and freedom of association are thus a reality in Burkina Faso, even in the public service.

The Committee stresses that Article 3 of the Convention guarantees workers' and employers' organisations the right to organise their administration and activities and to formulate their programmes without interference from the public authorities. The Committee therefore asks the Government to provide information on the cooperation, in practice, between trade unions and the Revolutionary Committees (areas of joint action, distribution of tasks, role of Revolutionary Committee leaders, financial links, etc.).

The Committee moreover asks the Government to indicate whether, when applying section 27 of Zatu No. AN-VI-008/FP/TRAV, strikes by public servants on probation not acting in their capacity as agents of the public authority have been prohibited.

Central African Republic (ratification: 1960)

The Committee takes note of the Government's report.

1. Situation of the property of the former General Union of Central African Workers (UGTC). The Committee observes that in its report the Government confines itself to stating that the problem of the property of UGTC, which was dissolved by the Decree of 16 May 1981, is in process of being settled. It again asks the Government to supply in its next report detailed information on the outcome of that settlement and on the present situation of the trade union's property.

2. 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 regrets that the Government repeats in its report that the national authorities have taken the view that Act No. 88/009 is in conformity with the Convention and that there is no need to amend it in line with the draft legislation that was prepared by the ILO and provided to the Government by the direct contacts mission in October 1989 in order to bring the provisions of sections 1, 2 and 4 of the law into conformity with the Convention.

The Committee still considers that sections 1, 2 and 4 (requirement that a person should be employed in the occupation as a wage-earner in order to be a member of a trade union and to stand for trade union office, and embodiment in legislation of the single trade union system) are not in conformity with Articles 2, 5, 6 and 7 of the Convention. It again urges the Government to reconsider its position as regards the need to amend the Act of 1988 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 Act, if they so desire.

The Committee hopes once again that the Government will endeavour to take the necessary measures in the near future.

Colombia (ratification: 1976)

The Committee notes the Government's report, the discussions at the Conference Committee in 1991 and the report of the direct contacts mission which visited Colombia from 16 to 20 September 1991.

The Committee notes with interest the provisions of the new Constitution (of 18 July 1991) respecting freedom of association, including the provision under which the cancellation or suspension of legal personality can only take place by judicial means.

The Committee notes with satisfaction the repeal of the following legal provisions restricting trade union rights, which results in a significant improvement in the application of the Convention:

- section 380 of the Labour Code (the dissolution, winding up and removal from the trade union register of trade unions by administrative authority in certain cases) (modified by Act No. 50 of 1990);

- Resolution No. 4 of 1952 (administrative interference in trade union independence) (abrogated by Decree No. 4734 of September 1991);
- Decree No. 1923 of 1978 (respecting national security, which prohibited any transitory occupation of public places with the objective of influencing a decision by the legitimate authorities which is not in force any more);
- Decree No. 1422 of 1989 (administrative intervention in trade unions' bookkeeping) (abrogated by Ministerial Decree of September 1991);
- Decrees Nos. 2655 of 1954, 85 of 1956 and 1469 (sections 14-26) of 1978 (restrictive regulations respecting trade union meetings) (abrogated by Decree No. 2293 of October 1991);
- section 379(a) of the Labour Code (prohibition of trade unions from taking part in political matters) (abrogated by Act No. 50 of 1990);
- Decrees Nos. 2200 and 2201 (prohibition of strikes, subject to administrative penalties and sentences of imprisonment, in cases where a state of emergency has been declared) (abrogated by Decree No. 2620 of December 1990).

Notwithstanding the amendments made by the Government, the Committee is bound to emphasise the provisions of the legislation which remain in force and are incompatible with the Convention. These include the following points:

1. The establishment of workers' organisations  
(Article 2 of the Convention)

- the requirement that two-thirds of the members are Colombian to establish a trade union (section 384 of the Labour Code);
- massive dismissals of workers in the public sector and the extended use of short-term contracts in the private sector aimed at weakening the trade union movement, which were brought to the attention of the direct contacts mission.

2. Interference in the internal administration  
of trade unions (Article 3 of the Convention)

- 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);
- the presence of the authorities at general assemblies convened to vote upon the calling of a strike (new section 444, last paragraph, of the Labour Code);
- the requirement that persons be Colombian for election to trade union office (section 384 of the Labour Code);
- 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 Labour Code);
- the requirement that persons belong to the trade or occupation in order to be considered eligible for election to trade union office (sections 388(1)(c) and 432(2) of the Labour Code 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 federations and confederations from calling a strike (section 417(1) of the Labour Code);
  - the prohibition of strikes not only in the essential services in the strict sense of the term, but also in a very wide range of public services 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);
  - various restrictions on the right to strike and the power of the Minister of Labour and the President to intervene in the dispute (sections 448(3) and (4) and 450(1)(g) 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 possibility of dismissing trade union officers who have intervened or participated in an illegal strike (new section 450(2) of the Labour Code).

The Committee notes the Government's statement in its report that there is no ILO Convention in which an ILO position has been adopted on the right to strike, and that a reading of Article 3 of the Convention shows that the Article refers to the right of workers to formulate their programmes of activities, but that such a programme cannot transgress the Constitution and laws of a country. The Government adds that Article 2 of the Convention only enshrines the right of autonomy of trade unions but in no case the right to strike, which has its own specific characteristics. Finally, with reference to the prohibition of strikes in the public services, the Government notes that in the new political Constitution the right to strike is guaranteed except in the essential public services, as defined by the legislator.

The Committee emphasises that although it is clear that the provisions of the Convention do not specifically mention the right to strike, Article 3 of the Convention provides that workers' organisations shall have the right to organise their activities and formulate their programmes in full freedom. The Committee considers that this right includes recourse to strikes, which are one of the essential means through which workers and their organisations may promote and defend their economic and social interests. As an essential means in this respect, it should not be the object of excessive restrictions. The Committee has considered that the prohibition of strikes in the public services should be confined to public servants acting in their capacity as agents of the public authority or to essential services in the strict sense of the term, that is, services whose interruption would endanger the life, personal safety or health of the whole or part of the population. Moreover, if strikes are restricted or prohibited for public employees and persons who work in essential services, the Committee has considered that appropriate guarantees should be afforded such as impartial and speedy conciliation, mediation and arbitration procedures, in order to protect those workers who are denied one of the essential means of defending their occupational interests.



The Committee notes with interest that Minister of Labour and Social Security expressed to the direct contacts mission the desire formally to request the technical assistance of the ILO in the future process of reforming labour legislation.

The Committee requests the Government to continue taking measures to adjust its legislation to the requirements of the Convention and to supply information in this respect.

The Committee is also addressing a request directly to the Government.

Cuba (ratification: 1952)

The Committee notes the Government's reports and the information supplied by a Government representative at the Conference Committee in 1991, as well as the comments of the International Confederation of Free Trade Unions (ICFTU) dated 31 January 1991. It also notes the comments submitted by the Central Organisation of Workers (CTC) on the Committee's previous observation and the comments of the ICFTU.

In its previous observations, the Committee pointed out that the explicit reference to the Cuban Central Organisation of Workers in the Labour Code (particularly in sections 15 and 16) was contrary to the Convention.

In its report, the Government once again repeats that section 13 of the Labour Code, which is still fully in force, establishes that "all workers, whether manual or intellectual, have the right to associate freely and to establish trade union organisations without prior authorisation". The Government points out that, pursuant to this text, 98 per cent of the workers decided, of their own will, to form the branch unions that are members of the CTC and that the legal texts referring to the CTC, far from restricting freedom of association, provide for and guarantee that no decisions are taken on the rights of workers by administrative bodies without consultation with the trade union organisations. According to the Government, these organisations are regulated and exercise their rights in accordance with principles, statutes and regulations that are democratically discussed and approved by the members.

While noting the Government's statements, the Committee once again points out that certain sections of the Labour Code by referring explicitly to the "Central Organisation of Workers" of Cuba enshrines the system of trade union unity at the top level in the legislation. Accordingly, the Committee again recalls that in its General Survey of 1983 on freedom of association and collective bargaining, it made it clear, 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 if the existing trade union so requests. 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 none the less be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

The Committee notes that the comments of the ICFTU refer to the following points:

- impossibility to create independent trade union organisations;
- appointment of trade union leaders by the Communist Party and not by the workers;
- amongst the functions assigned to trade unions, increase responsibility to the production and the productivity of workers, imposition of labour discipline, and putting pressure on workers to perform work "voluntarily".

The Committee regrets that the Government's report makes no specific reference to these comments. However, with regard to the selection of trade union leaders, the CTC states, in a document appended to the report, that the selection process for National Committee candidates is eminently democratic and involves no pressure or canvassing in favour of any candidate. During the organisation of the XVIth Workers' Congress, which was held in January 1990, candidates for this Committee, which has a total membership of 195, were selected from among 800 nominations from the intermediate organisations. The National Organising Committee, along with the general secretaries of the unions, then drew up a preliminary list of candidates which was submitted to the provincial delegations made up of all the delegates elected to attend the Congress. At these meetings, delegates were able to remove from the list anyone they considered to be unsuitable, explaining the reasons why, or to propose another person, on condition that there was no change in the total membership of 195. This does not imply that the result was pre-established, as the delegates had the opportunity to exercise their right to vote, both when the preliminary list was submitted to the provincial delegation and during the election held at the Congress.

With regard to union activities to increase production and productivity, the imposition of labour discipline and the pressure exerted on workers to perform work "voluntarily", the CTC states that it is necessary to take into account that in a State of workers and farmers, the principal aspiration is to serve the worker, and increased production and productivity mean greater well-being for the workers and the people, for the workers have freed themselves from exploitation and the fruits of their endeavours go to investment for national development.

The Committee also notes that although the Preamble to the Statutes of the CTC states that the trade union movement is not part of the State apparatus and that the CTC and the unions are not organisations of the Party, at the same time, the CTC and the unions recognise openly and consciously the leadership of the Party as being the vanguard and highest organisation of the working class, and they recognise, endorse and follow the policy of the Party and act in accordance with the principles of democratic centralism.

In addition, pursuant to the above Preamble, the tasks of the national union are to organise and develop voluntary work as the cornerstone of the communist education of the workers; to constantly heighten the workers' awareness of socialist labour by strengthening labour discipline, thereby promoting increased production and the steady increase of productivity; and to organise Socialist Emulation among the workers.



In this connection, the Committee considers that listing these tasks in the Statutes does not allow the organisation to carry out its activities without intervention from the public authorities. In addition, the designation of the CTC as the single organisation at central level in the legislation does not enable the workers to establish and join organisations of a different nature and independent of the public authorities, which is contrary to Article 2, 3, 5 and 6 of the Convention.

The Committee also wishes to recall paragraph 5 of the Resolution on the independence of the trade union movement, adopted by the International Labour Conference in 1952, which states that: "When trade unions in accordance with national law and practice of their respective countries and at the decision of their members decide to establish relations with a political party or to undertake constitutional political action as a means towards the advancement of their economic and social objectives, such political relations or actions should not be of such a nature as to compromise the continuance of the trade union movement or its social and economic functions irrespective of political changes in the country".

Accordingly, the Committee once again requests the Government to indicate the measures that it plans to take to delete from the legislation the numerous specific references to a single trade union organisation, designated in the legislation as the "Central Organisation of Workers" so that workers may effectively establish and join organisations of their own choosing fully independent of the public authorities, in accordance with Article 2 of the Convention. The Committee asks the Government to provide information on this matter.

[The Government is asked to provide full particulars at the 79th Session of the Conference.]

#### Cyprus (ratification: 1966)

The Committee notes the information contained in the Government's report in reply to its previous comments, and in particular the text of Act No. 48 of 1991.

1. Right of trade unions to elect their representatives in full freedom. The Committee notes with satisfaction that, in response to the comments that it has been making since 1969, the House of Representatives adopted on 15 March 1991 Act No. 48 repealing provisions of the Associations Act which provided that only persons who are currently employed in the occupation or trade concerned could be appointed or elected to hold office in trade unions or confederations.

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 with interest that according to the Government's report, the Office of the Attorney-General, in close cooperation with the Ministry of Labour and Social Insurance, is currently preparing new legislation to replace

the Defence Regulations bearing in mind the principles contained in the relevant Conventions.

The Committee recalls that the concept of essential services in the context of international labour Conventions only covers those whose interruption would endanger the life, personal safety or health of the whole or part of the population. It trusts that new provisions that conform 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.

Ecuador (ratification: 1967)

The Committee notes the Government's report, and particularly the adoption of Act No. 133 to reform the Labour Code published on 21 November 1991.

The Committee takes due note of the new wording of section 490 of the Labour Code, under which the number of cases in which a strike can be called has been extended (paragraphs 4 to 7); the Committee nevertheless notes that the new Act introduces the following provisions which may raise problems with regard to the application of the Convention:

- the increase from 15 to 30 of the minimum number of workers required for the establishment of trade union associations, including works councils. Even though the minimum number of 30 workers would be acceptable in the case of sectoral trade unions, the Committee considers that the minimum number should be reduced in the case of works councils so as not to hinder the establishment of such bodies, particularly when it is taken into account that the country has a very large proportion of small enterprises and that the trade union structure is based on enterprise unions;
- decision by the Ministry of Labour, in the event of disagreement between the parties, on the minimum services to be provided in the event of a strike in services that are considered to be essential, even when the State is a party to the dispute.

The Committee also regrets that the above text does not contain amendments relating to the following provisions, which it has been pointing out for many years are incompatible with the requirements of the Convention:

- 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);
- 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 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 433(11) of the Code).

The Committee notes the information supplied by the Government concerning the presentation on 22 May 1990 to the Secretariat of the National Congress by a member of the Congress of four draft amendments and two legal interpretations, the purpose of which is to bring the national legislation into conformity with the Convention. The Committee requests the Government to keep it informed of the progress of the draft texts before the legislature and to supply copies of them once they are adopted.

The Committee once again urges the Government to take the necessary measures in the near future to bring the law and practice into full conformity with the Convention and requests it to supply detailed information in this respect in its next report.

In addition, the Committee is addressing a request directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

#### Ethiopia (ratification: 1963)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report and notes, in particular, that the transitional Government of Ethiopia has set up a committee that will revise the labour legislation in the light of the new developments in the country which include the new economic policy and the charter of the transitional Government.

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 staff;

- the right of workers, including self-employed persons associated in cooperatives, 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 once again that the new labour legislation, giving effect to the Convention and taking account the above comments and its previous observations, will be adopted at an early date. 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 79th Session.]

#### Gabon (ratification: 1960)

The Committee notes the information supplied by a Government representative at the Conference Committee in 1991, the reports of the Government, and the comments it made in reply to the observations of the Confederation of Free Trade Unions of Gabon (CGSL) of 15 October 1991.

The Committee notes, in particular, the Government representative's statement that the recognition of individual liberties in the new Constitution of Gabon, which came into force on 26 March 1991, has a corollary in the overall social plan, which is the abolition of trade union monopoly, that is to say the establishment of genuine and complete freedom of association. It notes that a draft new Labour Code which was discussed during a tripartite meeting from January to April 1991, attended both by the unitary employers' and workers' central organisations and by other organisations of workers and employees, has already been examined by the Government and was to be presented before the end of 1991. According to the Government, the amendment envisaged includes the repeal of section 174 of the present Labour Code which obliges all workers' or employers' organisations to affiliate with the Trade Union Confederation of Gabon (COSYGA) or the Employers' Confederation of Gabon (CPG). The Government also states that Act No. 13/80 of 2 June 1980, establishing a trade union solidarity tax deducted for the COSYGA, is no longer applied and that the tax has not been deducted since March 1990. Legislation is to be adopted for its formal repeal.

With regard to the provisions on compulsory arbitration restricting workers' right to strike (sections 239, 240, 245 and 249 of the Labour Code), the Government representative stated that a draft law specifically on the right to strike, which takes into account the requirements of the Convention, has been prepared and may be incorporated into the revised Labour Code.

The Committee again draws attention to the need to amend section 173 of the Labour Code prohibiting the establishment of more than one union in a given occupation or a given region, and trusts that the above-mentioned provisions of the national legislation will shortly be amended to take account of its comments. It once again asks the Government in its next report to provide information on the measures

taken in this respect and to provide copies of all new legislation adopted to give effect to the Convention.

The Committee recalls that the Government could ask the ILO for technical assistance in this regard.

The Committee also notes that the CGSL, in a communication dated 15 October 1991, asks the Government to provide the ILO with full particulars of the nature of workers' organisations in Gabon, in the light of the proposals made by the National Conference on the dissolution of the single central trade union organisation (COSYGA) which, according to the CGSL, is a specialised agency of the Democratic Party of Gabon, the trade union freedoms recognised in the new Constitution of 26 March 1991 and the actual dissolution of COSYGA which, according to the CGSL, was approved by the workers concerned who have created several trade union organisations, including the CGSL.

The Committee notes the Government's reply in its last report to the effect that: (1) COSYGA, whose members wish the organisation to continue under the same name, has complied with the laws of the Republic of Gabon and adopted new rules under which it is now protected from any influence on the part of political parties and religions; (2) the new rules of COSYGA settle clearly the problem of the social assets of COSYGA vis-à-vis the new unions; (3) the sole object of occupational organisations is to examine and defend members' economic, industrial, commercial, agricultural and artisanal interests and there are no longer any restrictions on the establishment of these organisations; and (4) future elections of staff delegates and members of the Economic and Social Cooperation Committees will demonstrate that the various unions in establishments and enterprises are representative.

In the light of this information, the Committee asks the Government to provide a copy of the new COSYGA rules with its next report and to indicate the results of the above-mentioned elections.

#### Ghana (ratification: 1967)

With reference to its previous comments, the Committee notes the information supplied by the Government in its reports and before the Conference Committee in 1991. 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 stated 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 none the less 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.

A Government representative indicated before the Conference Committee of 1991 that the Government did not feel that the absence of any definition of the nature of the objection limited the scope of the court to exercise control, but that it would seek legal assistance so that it could reply more fully to the comments on this issue.

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 a certificate in force 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 indicated in its report that in Ghana all workers' organisations are affiliated to the national union of the sector concerned, which held 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.

Moreover, the Government representative stated that if there was any doubt as to which of the 17 national unions should obtain a bargaining certificate for a particular group of workers, the matter is settled by a Demarcation Committee which is a subcommittee of the Executive Board of the Trades Union Congress, which is a confederation of the 17 national unions. When the Demarcation Committee agrees on the union to be granted a collective bargaining certificate, the Registrar never refuses to issue the 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 bargaining agent 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 granted a certificate designating it as the exclusive bargaining agent.

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 a previous report, the Government mentioned 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 stated that, of its own volition, the TUC is not affiliated to any international workers' organisation but that, according to it, each of the 17 national unions, being autonomous, is affiliated to the various trade secretariats of international occupation organisations, such as those covering transport, chemical and agricultural workers. The Ghana Employers' Association is affiliated to the International Organisation of Employers and to the Pan-African Employers' Confederation.

The Committee observes once again 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 once again 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, the Committee again expresses the hope that appropriate amendments will be made to the law in the near future and that the Government will, if necessary, as suggested by the Conference Committee in 1991, make use of the technical assistance of the ILO once again so that appropriate measures be taken to eliminate as soon as possible the existing divergence between the legislation and the Convention and, in particular, to make trade union pluralism possible. The Committee urges the Government to keep it informed of any developments in this regard and to provide a copy of the desired amendments as soon as they are adopted.

Guyana (ratification: 1967)

The Committee takes note of the Government's report and recalls that its comments have addressed the following issues:

- the adoption of a Trade Union Recognition Bill;
- the need to amend the Public Utility Undertakings and Public Health Services Arbitration Act (Cap. 54:01) which confers on the Minister broad powers to refer a dispute in the services listed in the schedule (which may be revised at the discretion of the Minister) to a tribunal for arbitration without having previously obtained the agreement of the two parties, and renders workers who take part in an illegal strike liable to a fine or two months' imprisonment (section 19).

1. The Committee takes note of the contents of the Trade Union Recognition Bill which contains provisions on the establishment of an independent body for the certification of trade unions and the determination of the most representative union in a given unit by majority vote. The Committee notes that under section 27(a) of the Bill, the recognised majority union has exclusive authority to negotiate on behalf of workers in the bargaining unit. The Committee requests the Government to state whether, where no union regroups 40 per cent of the persons in a unit as is required by section 20(2) or, where no union regroups 51 per cent after the period of time stipulated in section 20(3)(b), collective representation is granted to workers in such unions, at least for their members. The Committee stated in paragraph 141 of its 1983 General Survey on Freedom of Association and Collective Bargaining that minority organisations



should be allowed to function and at least have the right to make representations on behalf of their members and to represent them in the case of individual grievances. The Committee further requests the Government to indicate whether, in the situation mentioned above, collective bargaining rights are granted to trade unions in these units on behalf of their own members, as it stated would be desirable in paragraph 295 of its General Survey.

2. In a previous comment, the Committee urged the Government to ensure that measures were taken to amend Act Cap. 54:01 to limit recourse to compulsory arbitration in respect of strikes relating to essential services in the strict sense of the term, namely services whose interruption is liable to endanger the life, personal safety or health of the whole or part of the population.

The Committee notes from the Government's report that the Minister has not invoked the provisions of the Act that permit him to refer disputes to arbitration without the consent of the parties for many years, that all the disputes referred to arbitration in recent years were at the instance of the unions and that the penal sanction contained in the Act has never been enforced. The Committee also notes the Government's statement that it is currently examining the legislation in view of the comments and observations made by the Committee of Experts with a view to adopting the necessary amendments.

The Committee again expresses the hope that, as part of the present review of the legislation, Act Cap. 54:01 will be amended to take account of its comments. It asks the Government to provide detailed information on developments in this respect.

#### Honduras (ratification: 1956)

The Committee takes note of the Government's report and the discussions that took place at the Conference Committee in 1991.

The Committee wishes to remind the Government of the sections of the Labour Code which must be amended in order to bring them into conformity with the Convention:

- 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 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 alignment of section 537 of the Code with Article 6, 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 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).

The Committee notes the information supplied by the Government concerning the first meeting of the Seminar on the reform of the Labour Code attended by delegates from the trade union organisations, representatives of the Honduran Private Enterprise Council and directors-general of the Ministry of Labour and Social Security; and the creation of the project "Modernisation and institutional reinforcement of the labour administration in support of the economic reorganisation programme", whose objectives are: to modernise, update and develop labour legislation so that it is more consistent with the Constitution of the Republic of 1982 and ratified international labour Conventions.

However, the Committee regrets that, although it has been pointing out to the Government for many years that a number of provisions of the existing Labour Code require amendment so as to bring them into line with the provisions of the Convention, the necessary reforms have still not been carried out.

Accordingly, the Committee cannot but trust that the Government will examine its observations carefully and reiterates the firm hope that it will take the necessary measures to give full effect to the Convention, and it again asks the Government to report any developments in this respect.

[The Government is asked to supply full particulars at the 79th Session of the Conference.]

#### Kuwait (ratification: 1961)

The Committee takes note of the Government's statement in its report that this Convention has made an effective contribution to strengthening freedom of association and the right to organise, developing trade union activities and directing freedom of association

towards its goals of protecting workers' rights and improving working conditions. The Government adds that the draft Labour Code takes account of the Committee's observations by including all the provisions of the Convention except those that run counter to national security.

The Committee recalls that for several years it has been drawing attention to a number of discrepancies between the Labour Code (Act No. 38 of 1964) and the Convention, in particular:

- (1) the prohibition on establishing more than one trade union for a given establishment or activity and the membership requirement of at least 100 workers in order to establish a trade union (section 71 of the Act) and ten employers to form an association (section 86);  
the requirement that trade unions may federate only if they represent the same occupation or industries producing similar goods or providing similar services (section 79);  
the prohibition on organisations and their federations from forming more than one general confederation (section 80);  
the system of trade union unity instituted by sections 71, 79 and 80 read together;
- (2) the requirement that non-Kuwaiti workers must reside in Kuwait for five years before joining a trade union; the requirement that a certificate of good reputation and good conduct must be obtained in order to join a union; the denial of the right to vote and to be elected of trade unionists who are not of Kuwaiti nationality, except to elect a representative whose only right is to express their opinions to the trade union leaders (section 72);
- (3) the prohibition on trade unions from engaging in any political or religious activity (section 73);
- (4) the requirement that a certificate must be obtained from the Minister of the Interior stating that he has no objection to any of the founder members before a trade union may be established; and the requirement that at least 15 members must be Kuwaiti before a union may be established (section 74);
- (5) the wide powers of supervision of the authorities over trade union books and records (section 76);
- (6) the reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 77);
- (7) the restriction on the free exercise of the right to strike (section 88 of the Labour Code).

With regard to the system of trade union unity, the Committee can only recall that the principle set forth in Article 2 of the Convention, that workers should be able to constitute organisations of their own choosing, is not intended as an expression of support either for the idea of trade union unity or for that of trade union pluralism. If workers choose to group together in a single trade union system, legislation should not impose such a system but should allow pluralism to be possible in the future (in this connection, see paragraphs 136 and 137 of the 1983 General Survey on Freedom of Association and Collective Bargaining). The Committee requests the Government to amend its legislation to ensure that workers, should they so wish, are able to set up unions outside the established trade union structure in order to safeguard their occupational interests.

As regards the prohibition imposed on foreign workers from voting or standing as candidates in trade union elections, except to elect a representative to express their opinions to the trade union leaders, the Committee stresses that the right of workers' organisations to elect their representatives (Article 3 of the Convention) is limited by the restrictions imposed on foreign workers by section 72 of the Labour Code, and that the legislation should be made more flexible in order to permit non-Kuwaiti workers to have access to or hold trade union office, at least after a reasonable period of residence in Kuwait (in this connection see paragraphs 159 and 160 of the General Survey).

With regard to the wide powers of supervision of the authorities at all times over trade union books and records, the Committee recalls that under Article 3 of the Convention, workers' organisations should have the right to organise their administration without any interference from the public authorities and that, accordingly, supervision of union finances should not normally go beyond a requirement that the organisation submit periodic financial returns (see paragraph 188 of the General Survey).

With reference to section 88 of the Labour Code under which compulsory arbitration may be imposed at the request of one of the parties in order to settle a labour dispute and end a strike, the Committee recalls that the right to strike is one of the essential means available to workers' organisations promote and protect their members' interests. It requests the Government to revise its legislation in order to ensure that compulsory arbitration with a view to ending a strike cannot be imposed except in the case of strikes in essential services in the strict sense of the term or in the event of an acute national crisis.

In its previous observation, the Committee noted that a draft Labour Code repealing several provisions contrary to the Convention (sections 71, 72, 73, 74 and 79) was being prepared. Since the Government's report confirms that the above draft takes the Committee's observations fully into account, the Committee asks the Government in its next report to provide information on the status of the draft Labour Code and on the measures it envisages to:

- remove from the legislation all provisions institutionalising trade union unity;
- enable foreign workers to vote and to stand as candidates in trade union elections;
- remove the prohibition on trade unions from engaging in any political activity;
- limit the powers of supervision of the authorities over the establishment and the internal management of trade unions;
- remove the measures providing for the reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution; and
- remove the excessive restrictions on the exercise of the right to strike.

The Committee hopes that the Government will do its utmost to take the necessary measures in the very near future.

The Committee is addressing a direct request to the Government concerning another subject.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

Liberia (ratification: 1962)

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

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.

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

Mongolia (ratification: 1969)

The Committee notes with interest the information supplied in the Government's report concerning the recent repeal of those provisions of the Constitution which referred to the leading and directing role of the party, as well as the entry into force on 1 July 1991 of the Trade Union Rights Act which guarantees the right of workers to organise in unions, accords full recognition of trade union pluralism and forbids any influencing of the activities of trade unions by political parties or powers. Noting from the Government's report that the final text of the draft Constitution was to be discussed by the Great National Khural at its November 1991 Session, the Committee requests the Government to indicate the date it came into force.

Myanmar (ratification: 1955)

The Committee notes that the Government's report has not been received. It none the less takes note of the written information communicated by the Government, the statement made by a Government representative and the long discussion that ensued at the Conference Committee in 1991.

With reference to its previous observation, the Committee notes that, according to the written information transmitted by the Government, Act No. 6 of 1964 and implementing Regulation No. 5 of 1976 have fallen into abeyance although they have not been formally amended or repealed and that, in practice, a large number of workers' organisations exist. The Committee also notes that a Government representative stated that with the abolition of the one-party political system, the unitary workers' organisation no longer exists and that the Act and Regulations organising the single trade union system have automatically become obsolete.

While noting this information, which the Government had already given, the Committee is bound to repeat its previous observation and once again urges the Government to adopt the necessary texts at an early date to lift the restrictions on the freedom of workers and employers to establish occupational organisations of their own choosing and to make trade union pluralism possible for first-level unions, federations and confederations, in order to bring its legislation and practice into conformity with the requirements of Articles 2, 5 and 6 of the Convention.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

Nicaragua (ratification: 1967)

The Committee takes note of the Government's report and observes that it contains information concerning compliance with the recommendations made by the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the complaint against Nicaragua concerning the application of Conventions Nos. 87, 98 and 144.

With regard to the information given in connection with paragraph 541 of the report of the Commission of Inquiry (amendment and updating of the Police Functions Act, the Police Code and the Code of Criminal Procedure), the Committee notes with interest that the National Assembly has promulgated Act No. 124 of 25 July 1991 on the reform of criminal procedure, which makes local judges competent to try and punish the perpetrators of minor criminal offences and district judges to try the perpetrators of offences that carry more severe penalties than correctional penalties, but provides that they may not pronounce sentence until a jury has delivered its verdict. The Committee takes note of the Government's statement that it does not propose to promulgate legislation on social communications since there is complete and unrestricted freedom to receive and disseminate information without limitation.

The Committee further notes with satisfaction, with regard to the information given by the Government in connection with the recommendation of the Commission of Inquiry concerning expropriations (paragraph 542 of the report of the Commission of Inquiry) that the properties have been returned to the leaders of COSEP.

The Committee takes due note that the Government has prepared a draft Labour Code taking into account the observations of the Committee of Experts, of the Commission of Inquiry and of the ILO advisers. As regards tripartite consultations provided for in Convention No. 144, the Committee notes the Government's statement that it has had extensive recourse to tripartism in different labour activities.

In this connection the Committee reminds the Government of its observations concerning certain provisions of or omissions from the legislation that are not in accordance with the Convention. The Committee had referred in particular to the need to:

- guarantee, by a specific provision, the right of public servants, self-employed workers in the urban and rural sectors and persons working in family workshops to associate for the defence of their occupational interests;
- abolish the requirement of an absolute majority of the workers of an enterprise or work centre for the formation of a trade union (section 189 of the Labour Code);
- amend the provision on the general prohibition of political activities by trade unions (section 204(b) of the Code);
- amend the obligation placed on trade union leaders to present to the labour authorities the registers and other documents of a trade union on application by any of the members of that union (section 36 of the Regulations on Trade Union Associations);
- lift the excessive limitations on the exercise of the right to strike, requiring a majority of 60 per cent for calling a strike, prohibiting strikes in rural occupations when the produce may be damaged if it is not immediately available, and enabling the authorities to end a strike that has lasted 30 days through compulsory arbitration if no settlement has been reached after the date authorised for the strike (sections 225, 228 and 314 of the Code).

The Committee asks the Government to send it a copy of the draft Code in question. Since the questions raised are of great importance

and it has been pressing them for many years, the Committee expresses the firm hope that at its next session it will be able to take note of tangible results with regard to the reconciliation of the legislation with the Convention and that the recommendations made by the Commission of Inquiry in its report (paragraphs 543 and 544) will be embodied in the future Labour Code.

#### Nigeria (ratification: 1960)

The Committee takes note of the Government's report and the information supplied by a Government representative at the Conference Committee in 1991.

1. Article 5 of the Convention (affiliation to international workers' and employers' organisations). With reference to its previous comments, the Committee notes with satisfaction that Decree No. 35 of 1989 prohibiting the international affiliation of trade unions has been repealed by Decree No. 32 of 1991.

2. Articles 2 and 3. The Committee recalls, however, that, for several years, the fundamental discrepancies between the national legislation and the Convention concerned the following points:

- 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; 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 observes that, in its latest report, the Government merely indicates that it notes the comments of the Committee and that the subcommittee of the National Labour Advisory Council responsible for the review of the labour laws has not yet concluded its work. The Committee again expresses the hope that the Government will examine very closely the observations that it has been making for several years in this respect, and urges the Government to indicate in its next report the measures taken to give full effect to the provisions of the Convention.

#### Norway (ratification: 1949)

The Committee notes the information contained in the Government's report and the comments of the Norwegian Trade Union Federation of Oil Workers (OFS) of 10 May 1991. It also notes the conclusions of the



Committee on Freedom of Association in Case No. 1576 (279th Report of the Committee on Freedom of Association, adopted by the Governing Body at its 251st Session, November 1991) concerning the restrictions imposed on the right to strike by legislative means in the oil industry through the imposition of compulsory arbitration.

While noting the Government's statement in its report that the interference by the authorities in the right to strike in order to restrict or prohibit it is compatible with the Convention in the event that the strike is liable to cause considerable economic losses with a harmful effect on society or third parties and that the oil industry should, in this respect, be considered to be an essential service, the Committee recalls that the principle whereby the right to strike may be limited or prohibited in essential services would become meaningless if the legislation defined essential services too broadly. The Committee has already indicated that the prohibition upon the right to strike should be confined to services whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in a situation of acute national crisis. Moreover, the Committee has considered it compatible with the Convention to maintain a minimum service, provided that it is restricted to operations that are strictly necessary to avoid endangering the life, personal safety or health of the whole or part of the population and provided that workers' organisations are, if they wish, able to participate in defining the minimum service along with the employers and public authorities.

The Committee of Experts, in the same way as the Committee on Freedom of Association, expresses doubts as to the compelling need to have had recourse to compulsory arbitration in the dispute in the oil industry and encourages the parties concerned, with the participation of the Government if necessary, to reach an agreement on the minimum services that would be strictly necessary in order not to compromise the life, personal safety or health of the whole or part of the population during a labour dispute in the oil sector. As did the Committee on Freedom of Association, the Committee of Experts recommends that all the parties to the dispute give priority to collective bargaining as the means of determining employment conditions.

Noting that, according to the information contained in the report of the Committee on Freedom of Association, the Government plans to examine possible modifications to the existing system, the Committee trusts that the Government will endeavour to take the necessary measures to bring national law and practice into conformity with the principles of the Convention and requests it to indicate any progress achieved in this respect in its next report.

#### Pakistan (ratification: 1951)

The Committee notes the Government's report for the period 30 June 1990 and the discussion which took place in the Conference Committee in 1991. It also notes the conclusions reached by the Committee on Freedom of Association in Case No. 1534 (278th Report, paragraphs 451 to 472, and 281st Report, paragraphs 160 to 173,



approved in May-June 1991 and February 1992, respectively) and the Government's reply to the comments previously made by the Pakistan National Federation of Trade Unions (PNFTU), as well as the comments made by the All Union Pakistan Trade Union Council dated 25 June 1991 and the Government's observation thereon supplied in letters dated 5 October 1991 and 29 January 1992.

The Committee's previous observations referred to inconsistencies between the national legislation and various Articles of the Convention on the following points:

- ban on trade union membership and activities for employees of the Pakistan International Airlines Corporation (PIAC) (section 10 of the PIAC Act, 1956);
- denial of the rights guaranteed by the Convention for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance, 1980, and section 4 of the Export Processing Zone (Control of Employment) Rules, 1982);
- exclusion of public servants of grade 16 and above from the scope of the Industrial Relations Ordinance, 1969 (section 2(viii)(special provision));
- restrictions on recourse to strikes (sections 32(2) and 33(1) of the Ordinance);
- prohibition on minority unions from representing their members in relation to individual grievances;
- comments from the PNFTU alleging the promotion of union activists as an anti-union tactic.

The Committee also notes that, according to the All Union Pakistan Trade Union Council, employees in private and public sector hospitals are denied the right to form trade unions.

1. The Committee notes with interest that section 10 of the PIAC Act has been amended to repeal the ban on trade union membership and activities by airlines employees. It notes, however, from the Conference discussions, that a similar ban applies to employees of the Pakistan Telecommunications Corporation and that, according to the Government representative, draft legislation restoring trade union rights there was to have been passed by the National Assembly at the end of 1991. The Committee accordingly requests the Government to confirm that the draft was passed and to supply a copy of the amending legislation.

2. The Government states that export processing zones were set up to boost industrialisation and to enable workers and employers to work together in an environment of industrial peace, and since this has been largely achieved, the 1980 Act has not been amended; however, it gives the assurance that all unreasonable restrictions on the right to organise will be removed. The Committee welcomes this development. It nevertheless reminds the Government that these restrictions are not consistent with the requirements of the Convention. It asks the Government to transmit any legislation amending the Act and Rules in question.

3. As for the granting of trade union rights to senior civil servants, the Government states that since they are engaged in the administration of the State they are not covered by the Industrial Relations Ordinance; there are, however, 25 associations of civil servants which, it claims, can act in a wide range of ways for the

defence of their members' interests. The Committee notes from section 28 of the Sindh Government Servants (Conduct) Rules, amended in 1990 and mentioned in a previous direct request, that associations of public servants are subject to serious restrictions incompatible with Articles 2 and 3 of the Convention: membership confined to civil servants serving in one functional unit (see the 1983 General Survey on Freedom of Association and Collective Bargaining, paragraph 126); requirement that all office-bearers be members of that association (op. cit., paragraph 158); bans on engaging in political activities, limiting activities to matters of personal interest of their members, ban on involvement in the individual cases of their members, ban on issuing periodical publications or publishing representations on behalf of their members without government sanction and the requirement of prior approval of the approving authority (the employer) of their by-laws (see, respectively, op. cit., paragraphs 195, 68, 152).

Noting that the Government has not replied to its query whether similar restrictions exist in other provinces, the Committee cannot but repeat that senior and provincial civil servants - like all other workers - should have the right to form and join organisations of their own choosing, organisations which should be free to act in the defence of the occupational interests of their members. If it is felt that joint membership with other types of government servants is undesirable due to the special characteristics or functions of a particular group or to avoid conflicts of interest, provisions so forbidding joint membership should ensure that such workers have the right to form their own organisations and that the categories of concerned staff are not so broadly defined that the organisations of other workers in the government services are weakened by depriving them of a substantial proportion of potential membership (op. cit., paragraph 131). The Committee accordingly asks the Government to inform it of measures taken or envisaged to bring the legislation into conformity with the Convention on this point.

4. Regarding the schedule of eight public utility services in which strikes are banned, the Government is of the view that if any such service is disrupted this is likely to endanger the health and safety of the society or part of the population; it adds that the list is already a bare minimum and if any service was deleted thus allowing strikes or lockouts, this would certainly affect the interest of the community as a whole. The Committee agrees that most of the services listed in the schedule accord with its definition of essential services where strikes may be restricted or even prohibited, namely services where an interruption would endanger the life, personal safety or health of the whole or part of the population (op. cit., paragraph 214); it must repeat, however, that it has consistently considered that oil production and distribution, the post and telegraph service, railways and airways (except for air traffic controllers), and ports are not within this definition and accordingly again asks the Government to amend the schedule.

5. As regards the rights of representation of minority unions, the Government repeats that if a minority union is permitted to dialogue with the employers in the presence of the elected workers' representatives (the bargaining agent) this would undermine the very

existence of the elected representatives; it adds that workers themselves have been agitating against any such practice publicly and during the tripartite discussions on the issue, feeling that workers' rights are infringed when employers can establish contact with minority unelected unions. The Committee would emphasise that the only rights of minority unions that it is advocating are those of representing their own members in individual grievances, not an undermining of the bargaining parties; by virtue of the right of workers to join organisations of their own choosing, as set forth in Article 2 of the Convention, the members of unions should have the right as regards their individual claims, even if their union is a minority one, to be represented by their own organisation (op. cit., paragraph 141). The Committee therefore again asks the Government to consider amending its legislation so as to enable minority unions to represent their members in these specific circumstances.

6. The Committee notes that the Committee on Freedom of Association, in Case No. 1534, examined allegations from the PNFTU and other union organisations identical to the comments made by the PNFTU in the context of the present Convention, namely that a number of foreign-owned companies in the bank and finance sector were giving false promotions to their employees so as to remove them from the category of "workman" in section 2 of the Industrial Relations Ordinance and place them in the "employer" category, thus denying their right to belong to the same union as workers. The Committee on Freedom of Association found that these staff movements were clearly designed to undermine the membership of workers' unions, some of which had been severely affected in practice and called on the Government to take measures to strengthen the application of the protective provisions in the Ordinance so as to prevent employers from weakening workers' unions through artificial promotions. The present Committee notes the Government's explanations that section 15(i) provides protection against anti-union acts and that, if these were in effect false promotions since the employees received higher wages but not the corresponding change of task to a supervisory role, the employees could use the unfair labour practice provisions of section 22(A)(8)(g) and eventually go to the labour courts for redress. Noting that the Government has not yet supplied the statistics requested in its previous observation on the "employers'" organisations which might be formed by the promoted workers, the Committee considers that the Government should strengthen the Ordinance as suggested above, and asks it to inform it of any measures taken or envisaged in this connection.

7. Regarding the denial of the right to form trade unions and to strike of employees in private and public sector hospitals, the Committee notes the Government's statement that it is conscious of the need of constant care and service to the sick, injured and physically handicapped population so that it does not consider it appropriate to allow the members of the medical profession to form trade unions and to go on strike though these rights are available to other workers under the Industrial Relations Ordinance, 1969. The Committee, while accepting that private and public sector hospitals fall within the category of essential services where the right to strike can be denied, asks the Government to restore to these employees the right to

form trade unions and to negotiate collectively their terms and conditions of employment.

In view of the fact that the Committee has been commenting on many of these points for some considerable time, it trusts that the Government will make every effort to take the measures to bring its legislation into full conformity with the Convention as soon as possible.

Panama (ratification: 1958)

The Committee notes the Government's reports and the information supplied to the Conference Committee in 1991.

The Committee recalls that the points that it has been raising for several years refer to the following:

- 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, under section 344 of the Code, of too high a number of members to establish an occupational organisation (50 workers or ten employers);
- the requirement that 75 per cent of trade union members are Panamanian (section 347);
- the automatic removal from office of a trade union officer in the event of his dismissal (section 359);
- the authorities' wide powers of supervision over the records and accounts of trade unions (section 376(4)).

More recently, the Committee has noted that Act No. 13 of 11 October 1990 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; and that Act No. 25 of 1990 authorises the executive and the directors of independent and semi-independent institutions, state and municipal enterprises and other public 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 public servants' associations, their trade union or sectoral delegates and representatives, the officers of the public servants' associations, irrespective of the existence of trade union immunity and irrespective of whether they are governed by special laws.

The right of workers and employers, without distinction whatsoever, to establish and join organisations of their own choosing

With regard to the exclusion of public servants from the scope of the Labour Code and consequently from the right to organise and bargain collectively, the Government indicates that the National Constitution, in Chapters 2 and 3 of Title XI, establishes "the basic principles of personnel administration" and "the organisation of

personnel administration" under which the Administrative Careers Act of 1963 was issued, amended by Cabinet Decree in 1968 which repealed the sections concerning the stability of public servants. These are the reasons why the Labour Code cannot be applied to public servants except in the specific cases where the right to organise is authorised, set out in Act No. 8 of 25 February 1975 and Acts Nos. 34 and 40 of February 1979 which apply to certain state enterprises. While noting this information, the Committee wishes to stress that the provisions of the Convention apply to all workers "without distinction whatsoever" and therefore cover all public officials and employees.

With regard to the requirement of too high a number of members to establish an occupational organisation (section 344 of the Labour Code), the Committee notes the Government's statement that the purpose of this section of the Code is to strengthen trade union organisations so that they can effectively use the right to bargain collectively which is based on the principle of the majority. The Committee has pointed out on a number of occasions that the requirement of too high a number of members may hamper or even prevent the establishment of occupational organisations of the choosing of those concerned, which would be contrary to Article 2 of the Convention.

As regards the requirement in section 347 of the Code that 75 per cent of union members must be Panamanian, the Government states that this is not a discriminatory requirement but rather one which belongs to the aspirations of organisations of workers because, for historical reasons, foreigners controlled the unions as well as economic activity; there is no ban on the right to unionise of foreigners, so long as the level of 25 per cent of members of the union is not exceeded. While noting these statements, the Committee wishes to remind the Government that the right of workers to establish and join unions, without distinction whatsoever, implies that all workers who are in the country legally shall enjoy the trade union rights provided for in the Convention, without any distinction, particularly on the grounds of nationality (in this connection see paragraphs 76, 77, 96 and 97 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

The right of workers' and employers' organisations to elect their representatives in full freedom, to organise their administration and to formulate their programmes

Regarding the wide powers of the authorities to inspect, at least once every six months, the records, minutes and accounts of trade unions (section 376(4) of the Labour Code), the Government indicates that the State does not control trade union activities merely by undertaking accounting checks and by registering minutes, since the unions are of public interest and, consequently, the Ministry of Labour and Social Welfare is obliged to promote the creation of these organisations. The Government states that such powers of supervision over this union documentation do not exist since the "minute registers" are limited to those minutes recording changes in or the election of executive committees, amendments to the statutes and authorisations to exercise rights vis-à-vis third persons, as a basic principle of the legal personality and the legal representatives of

the organisation. The Ministry only intervenes when challenges are made by members themselves to the election of an executive committee, using ordinary procedures and with the knowledge of the labour judges. There is no control over union accounts since the examination of the books is only aimed at verifying complaints of mismanagement of union funds or abuse of office, to establish that they are properly kept. The Ministry cannot suspend any union leader even if it has established that there has been mismanagement of funds or his appropriation of them. Furthermore, the formality of lodging registration requests for new unions is aimed at giving them the protection or immunity (fuero sindical) of a trade union in the process of being set up, as provided in sections 381 and 185 of the Code. The Committee notes the detailed information supplied by the Government on these points, but recalls that this provision of section 376 confers excessive powers on the administrative authorities with regard to the internal management of unions, which is not consistent with the principles laid down in Article 3 of the Convention, under which unions have the right to organise their administration without any interference from the public authorities which would restrict this right or impede the lawful exercise thereof. The Committee considers that it would be desirable that the supervision of the auditing of accounts be carried out when a certain percentage of the members so requests or be carried out by the courts.

With regard to Act No. 13 of 11 October 1990, which sets out restrictions on the right to strike, the Committee takes note of the Government's information to the effect that the possibility of resorting to arbitration, using the labour authorities in cases of a prolonged strike which could produce serious economic disruption in an undertaking, is a discretionary option which can be used following a summary verification of this disruption, with the workers being given a hearing. This Act is of a transitional and exceptional nature (to apply for a period of three years) and was promulgated as part of the "Stabilisation Policies" to facilitate the necessary economic recovery and encourage the creation of new sources of employment. The Committee also notes that under an agreement on cooperation in the social and labour sectors concluded on 4 December 1991 between the workers, the employers and the Government, possible changes in the period of application of Act No. 13 of October 1990 are to be discussed. While noting this information, the Committee reiterates that, according to its principles, the right to strike may only be subject to serious restrictions such as submission to compulsory arbitration for example: (1) in essential services in the strict sense of the term (services whose interruption would endanger the life, personal safety or health of the whole or part of the population); (2) in the case of public servants acting in their capacity as agents of the public authority; and (3) in the case of an acute national emergency.

Regarding Act No. 25 of 14 December 1990, with retroactive effect as of 4 December 1990, the Government states that this is an Act concerned with law and order against subversive acts by public servants; it is a temporary enactment in force until 31 December 1991. It does not involve dismissal or sanctioning of "trade union leaders" because of their office, but the sanctioning of public



servants who participated in a military plot, exhorting the population to undertake a prolonged general work stoppage to secure the fall of the Government. The Committee reiterates its previous observation that Act No. 25, in so far as it could have given rise to dismissals on account of a person's holding trade union office, greatly prejudices the right of associations of public employees to organise their activities, including the use of strikes, and that it is intended to legitimise the dismissal of a large number of such employees without providing for judicial appeal against such decisions. The Committee notes, however, that the period of application of the Act has now expired.

In view of the seriousness of these discrepancies and the length of time that has elapsed since its first observation on these points, the Committee again urges the Government to amend these provisions in its legislation in the near future so as to bring the law and practice into conformity with the Convention.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

#### Paraguay (ratification: 1962)

The Committee recalls that its previous comments referred to 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 social and economic interests. The Committee 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. In connection with these matters, the Committee notes that the Committee on Freedom of Association has once again been called upon to examine allegations concerning the refusal to grant legal personality to an organisation of public employees (see 281st Report, Case No. 1546, paragraphs 97 to 106, approved by the Governing Body in March 1992).

The Committee also recalls that it commented 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; 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; and 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 new Labour Code will provide for national legislation to be brought in line with the international Conventions, and repeal all

laws that restrict or suppress international achievements in the labour, political and social fields.

The Committee has been informed that the authorities have requested technical assistance from the International Labour Office in drafting a bill on freedom of association, with a view to bringing the legislation into conformity with the Convention.

Since the questions raised are of great importance and the Committee has been pressing them for many years, the Committee expresses the firm hope that at its next meeting it will be able to note tangible results with regard to bringing the legislation into conformity with the Convention, particularly as regards the freedom of association of public servants and employees.

[The Government is asked to provide full particulars at the 79th Session of the Conference.]

#### Peru (ratification: 1960)

With reference to its previous comments, the Committee notes the information supplied in the Government's report and the discussions that took place at the Conference Committee in 1991.

The Committee recalls that its comments have referred for several years to the following points:

- the prohibition of the re-election of the officers of a 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 of Presidential Decree No. 003-82/PCM);
- the need to change the requirement of belonging to the enterprise for election to trade union office (Presidential Decree No. 001 of 15 January 1963); and
- the need to amend 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. The Committee notes with satisfaction the promulgation of Presidential Decree No. 063-90/PCM of 28 February 1990 (repealing section 6 of Presidential Decree No. 003-82/PCM) which permits, in section 5, the re-election of members of management committees of public servants' trade unions immediately following the end of their term of office.

2. With regard to the prohibition of public servants' federations and confederations from forming part of organisations representing other categories of workers (section 19 of Presidential Decree No. 003-82/PCM), the Government reiterates the statement made in its last report, but indicates that the National Institute of Public Administration has taken action to ensure that the necessary measures are adopted to bring the legislation into conformity with the Convention.



The Committee takes note of the information supplied by the Government and hopes that the necessary measures will be taken to ensure that federations and confederations of public servants can affiliate freely with organisations of their choosing, at least at the higher level (see paragraphs 78 and 126 of the General Survey on Freedom of Association and Collective Bargaining of 1983).

The right of workers to elect their  
representatives in full freedom

3. With regard to the necessity of belonging to the enterprise to hold trade union office (Presidential Decree No. 001 of 15 January 1963), the Committee notes the Government's indication that this situation will be dealt with in the General Labour Bill.

The Committee again expresses the hope that a new provision will be adopted in the near future to eliminate any obstacle to the right of workers to elect their representatives in full freedom, in conformity with Article 3 of the Convention.

Prohibition on trade unions from engaging  
in political activities

4. With regard to the prohibition of trade unions from engaging in political activities as institutions, by virtue of Presidential Decree No. 009 of 1961 (section 6), the Committee notes the Government's statement that when the new Labour Law comes into force, it will repeal Presidential Decree No. 009 of 1961.

The Committee expresses the hope that the new General Labour Law will guarantee that trade union organisations are able to express themselves publicly on matters of general interest and, consequently, of a political nature in the broad sense of the term so that, in particular, they can express their views publicly on the Government's economic and social policy, since the fundamental principle of the trade union movement is to ensure the development of the social and economic well-being of all workers.

The Committee again requests the Government to take the necessary measures to bring its law and practice into line with the Convention which it ratified many years ago, and to provide detailed information in its next report on progress made in this respect.

The Committee is also addressing a request directly to the Government.

Poland (ratification: 1957)

The Committee notes the Government's report and the new Acts of 23 May 1991 concerning trade unions, employers' organisations and the settlement of collective labour disputes.

The Committee notes that the new legislation applies the Convention to a large extent. In particular, it notes with satisfaction that: (1) the possibility of trade union pluralism is set out in the law (the Labour Code, as amended, and the Act of 23 May 1991 concerning trade unions); (2) workers have the right to strike

(Act of 1991 concerning the settlement of collective labour disputes); and (3) trade unions no longer exercise functions related to labour discipline (Act of 7 April 1989 to amend the Labour Code, which provided in section 19 that "trade unions shall take part in formulating and carrying out the tasks connected with [...] the exertion of influence on the standards of social awareness and socialist human relationships"). In particular, it notes with interest that the number of persons excluded from the right to establish trade unions has been reduced in comparison with the previous situation.

The Committee also notes the comments of NSZZ "Solidarity" on the application of the Convention and requests the Government to reply to them.

In view of the fact that the Government has not yet had the time to reply to the comments of NSZZ "Solidarity", the Committee will deal with these specific questions at its next meeting once it has examined the Government's observations.

#### Romania (ratification: 1957)

The Committee takes note of the texts of the three basic Acts respecting labour adopted by the Romanian Parliament: Act No. 54 respecting trade unions of 1 August 1991, Act No. 13 on collective labour agreements of 8 February 1991, and Act No. 15 of 11 February 1991 on the settlement of collective labour disputes, as well as the text of the new Constitution of 8 December 1991.

It also notes the comments made by the World Confederation of Labour and the Cartel Alpha National Trade Union Federation, and asks the Government to reply to them.

The Committee notes with interest that the new texts referred to above, in conjunction with the repeal of several legislative provisions on which the Committee commented earlier, change the general orientation of the industrial relations system, establish trade union pluralism and the independence of the trade union movement, and recognise the principle of the workers' right to strike.

However, the Committee wishes to draw the Government's attention in a direct request to certain important aspects of the legislation including:

- the exclusion of certain categories of workers from the right to organise;
- the free election of union representatives, including for the conciliation process;
- the voting requirements for, and the objectives of, strikes;
- binding arbitration;
- financial liability of the organisers of a strike;
- restrictions and prohibitions of the right to strike, essential services and compensatory bargaining mechanisms; and
- provisions concerning the acquisition of legal personality.

Furthermore, the Committee would like to know whether legislation concerning the rights and obligations of employers and their organisations has been adopted or is being prepared.

The Committee also asks the Government to indicate whether the Act respecting the organisation of labour and labour discipline in State socialist units (Act No. 1/1970) has been repealed and, if so, to provide a copy of the text repealing it. If not, it asks the Government to take steps to repeal it.

Since the Government has not yet had time to reply to the comments of the World Confederation of Labour and the Cartel Alpha National Trade Union Confederation, the Committee will address these specific questions at its next meeting once it has examined the Government's observations.

#### Seychelles (ratification: 1978)

The Committee notes once again with regret that the Government's report has not been received. It must therefore repeat its previous observations that have already been formulated many times in the following terms:

The Committee takes note of the statutes of the National Workers' Union. It observes that 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.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

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

The Committee takes note of the information contained in the Government's report to the effect that the committee composed of representatives of the Ministry of Social Affairs and Labour, the General Federation of Workers' Unions (FGST), the General Federation of Peasants (FGP), the General Federation of Craftsmen (FGA) and the Chamber of Industry decided to obtain the written opinion of the FGA, FGP and FGST concerning the amendment of certain provisions of Legislative Decree No. 84 of 1968 concerning trade unions, Act No. 21 of 1974 respecting peasants' associations, and Legislative Decree No. 250 of 1969 respecting craftsmen's associations, to bring them into line with the Convention. The Government adds that by 21 April 1991 only the FGST had issued an opinion on the possibility of repealing sections 25, 32, 36, 44(b)(4), 49(c) of Legislative Decree No. 84 and section 12 of Legislative Decree No. 250. The Committee regrets, however, that the report does not indicate whether the FGST supported or opposed the repeal of the sections in question.

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) which organises the structure of trade unions on a single union basis;
- Legislative Decree No. 250 of 1969 regarding craftsmen's associations (section 2) and Act No. 21 of 1974 regarding peasants' cooperative associations (sections 26 to 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, and 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 Committee recalls that, under Article 2 of the Convention, workers, without distinction whatsoever and without previous authorisation shall have the right to establish and join organisations of their own choosing. It also recalls that this Article 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 regrets that neither the above-mentioned committee nor the FGST have issued an opinion on the repeal of the provisions in the national legislation which organise the single trade union system (sections 3, 4, 5, 7 and 49(c) of Legislative Decree No. 84 of 1968, Legislative Decree No. 250 of 1969 and Act No. 21 of 1974). According to the Government, the FGST has issued an opinion on the possibility of repealing section 49(c) of Legislative Decree No. 84 concerning the right of the General Federation to dissolve the management committee of any trade union.

Accordingly, the Committee once again requests the Government to take the necessary measures in the very near future to remove from its legislation the numerous references to the single trade union federation designated in the law as the General Federation of Workers' Unions (FGST) so as to enable workers who so wish to establish trade union organisations of their own choosing outside the existing trade union structure, 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. The Committee recalls that the guarantees set out in Article 2 of the Convention should apply to all workers and employees, without distinction whatsoever, and asks the Government to amend section 25 to bring the national legislation into conformity with the Convention.

3. The broad powers of intervention of the authorities in trade union finances. The Committee regrets that the opinion of the FGST concerns only section 32 of Legislative Decree No. 84 (the need for the prior consent of the FGST and the approval of the Ministry for the acceptance of gifts, donations and legacies) and sections 36 of Legislative Decree No. 84 and 12 of Legislative Decree No. 250 (the obligation on unions to allocate a certain percentage of their income to the higher trade union bodies), and that it gave no opinion on section 35 of Legislative Decree No. 84 (financial supervision by the Ministry at all levels of the trade union organisation).

The Committee stresses the need to bring the legislation into line with Article 3 of the Convention which guarantees workers' organisations the right to organise their administration without any interference from the public authorities. The Committee has always considered that supervision of union finances should not normally go

beyond a requirement for the periodic submission of financial reports, and that if the administrative authority has a discretionary power to inspect the books and other documents of organisations or to carry out investigations and demand information at any time, there exists a serious risk of interference in trade union affairs. The Committee therefore asks the Government to repeal the provisions which enable the Government to intervene in the financial administration of unions.

4. Requirement of six months in an occupation before being eligible for trade union office (section 44 of Legislative Decree No. 84). The Committee considers that provisions of this nature 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 Committee notes that, according to the Government, the draft amendment to the Act on the organisation of agricultural relations contains a provision repealing section 160 which makes it unlawful for agricultural employers and tenant farmers to suspend agricultural work on their land and for agricultural workers to go on strike.

The Committee again stresses that it is most important that legislation should not deprive trade union organisations of the right to strike, as this is one of the essential means by which they may promote and defend the occupational interests of their members.

The Committee asks the Government to indicate in its next report the measures that have been taken to bring all its legislation into conformity with the requirements of the Convention.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

#### Togo (ratification: 1960)

The Committee notes the text of Decision No. 14 of the Supreme National Conference, repealing Ordinance No. 77-5 of 4 March 1977 which provided for the compulsory deduction of trade union dues for the National Confederation of Workers of Togo (CNTT), designated by name in the legislation.

It observes, however, that Decision No. 14 does not refer to Decree No. 77-66 of 14 March 1977 fixing the amount of trade union dues. It therefore requests the Government, in its next report, to indicate whether this Decree has also been repealed and to provide copies of any legal texts currently governing this matter.

#### Trinidad and Tobago (ratification: 1963)

The Committee takes note of the Government's report and recalls that its previous observations have addressed the following issues:

1. the need 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);
2. the need to 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;
3. the need to amend sections 61 and 65 of the same Act to ensure that any resort to the courts 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.

In its report, the Government indicates that the high-level review committee that it had appointed to undertake a global review of all the Service Acts and regulations has accomplished a considerable amount of work. In particular, the Fire Service (Amendment) Bill, 1990 and the Prison Service (Amendment) Bill, 1990, both of which amend the relevant Service Acts to bring them into line with the observations of the Committee of Experts, have been completed after extensive consultations with the relevant associations, and are soon to be submitted for the Government's approval. Moreover, a draft Civil Service (Amendment) Bill has been submitted to the Public Services Association, prior to discussions to be held thereon.

The Committee hopes that the Government will be in a position to indicate in its next report whether the above-mentioned Bills have been promulgated and, if so, to provide copies of these amendments.

The Government states that it is still actively considering the questions of amending sections 59(4)(a) and 65 of the Industrial Relations Act, Chapter 88:01, along the lines suggested by the Committee. It is also studying the comments of the Committee with respect to the amendment made to section 61 of the same Act, by the promulgation of Act No. 5 of 1987.

The Committee strongly hopes that the Government will implement legislation along the lines it has been suggesting for many years and urges the Government once again to indicate in its next report the measures taken to bring its legislation into conformity with the Convention.

In addition, in the light of the comments made by the Staff Association of the Central Bank of Trinidad and Tobago in a letter dated 7 November 1990 relating to the insufficient observance of the Convention in this sector, the Government indicates that in the context of a revision of the Central Bank Act, 1964, which is currently being undertaken by the Government, consideration will be given to the establishment of an appropriate mechanism to deal with the grievances of Central Bank employees.

The Committee requests the Government, in its next report, to keep it informed of any developments in this respect.

United Kingdom (ratification: 1949)

The Committee takes note of the Government's report. It also notes the extensive discussion which took place in 1991 at the Conference Committee concerning the issue of the Government Communications Headquarters (GCHQ), as well as the comments made by the Trades Union Congress (TUC) and the Council of Civil Service Unions (CCSU) in several communications in 1991 and 1992.

I. Dismissal of workers at the GCHQ

In its communication of 10 January 1992, to which is attached a series of letters to and from the Government, the CCSU and itself, the TUC states that following the debate at the Conference Committee in 1991 it wrote to the Prime Minister proposing discussions on this issue in the light of the recommendations made by the Committee of Experts and the Conference Committee. The TUC had referred then to the readiness of the trade unions to accept arrangements meeting the Government's requirements, and to the possibility to take the issue to the International Court of Justice, which is open to the Government under the ILO Constitution. According to the TUC, the CCSU intend to raise the issue of the GCHQ workers at the earliest opportunity with the Head of the Home Civil Service, but are pessimistic about a positive outcome in view of the attitude of the Government which has declared it found it difficult to see that any useful purpose would be served by such discussions.

In its report, the Government basically reiterates the arguments put forward at the Conference Committee in 1991, and asks the Committee of Experts to reconsider their views in light of the following points:

- GCHQ is part of the national security and intelligence service;
- under Convention No. 151 there would be no problem of interpretation;
- in many other countries the same activities would be carried out entirely within the military apparatus and would therefore be exempt, even under Convention No. 87;
- out of all the workers involved only 13 eventually did not accept the revised conditions or alternative employment, and they were given generous financial compensation;
- other international bodies concerned with fundamental human rights have ruled in the UK Government's favour; and
- workers at GCHQ are able to join an effective and indeed active trade union organisation, and the majority of staff have in fact done so.

Whilst reiterating that the trade unions concerned may raise the issue at any of their regular meetings with the Head of the Home Civil Service - an offer they have not taken up so far according to it - the Government reaffirms its belief that its action in respect of GCHQ was in line with its obligations under the ILO Conventions.

Having carefully examined the Government's report and the comments made by the trade unions, the Committee is bound to note that it was not provided with any new element which might lead it to modify its previous observation on the merits of this issue. The Committee



further notes that the Conference Committee was almost unanimous as to the necessity of a renewal of the dialogue. Since then, while reiterating that the trade unions could raise the issue at their regular meetings with the Head of the Home Civil Service, the Government indicated twice to the TUC (letters of 25 June and 20 December 1991) that it found it difficult to see that any useful purpose would be served by such discussions, which probably explains why the issue was apparently not raised during these regular meetings.

The Committee deplores that it has been unable to note any tangible progress on this question or even a resumption of discussions, despite the very broad consensus that has emerged in the supervisory bodies.

It recalls that the only exclusions provided for in the Convention concern the armed forces and police, that workers have the right to establish organisations of their own choosing, and that the right to organise does not prejudice the right to strike.

The Committee consequently urges the Government to resume in the very near future constructive discussions calculated to lead, through genuine dialogue, to a compromise acceptable to both sides.

## II. Article 3 of the Convention

### General

In its observation of 1991, the Committee had made a number of comments concerning the Employment Acts of 1980, 1982 and 1988 and the Trade Union Act of 1984. These comments concerned the following issues:

- unjustifiable discipline (section 3 of the Act of 1988);
- indemnification of union members and officials (section 8 of same Act);
- immunities in respect of civil liability for strikes and other industrial action;
- dismissals in connection with industrial action; and
- complexity of the legislation.

The Committee notes the extensive observations communicated by the Government on these issues, both at the Conference Committee and in its report. It further takes note of the comments of the TUC in its communication of 22 January 1992, concerning the Employment Act of 1990.

#### 1. Unjustifiable discipline (section 3 of the Act of 1988)

In its previous observation, the Committee 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. While recognising that the guarantees provided by Article 3 are conditioned by respect for fundamental human rights, the Committee considered that it is not compatible with the Convention to prevent the members of a

impose disciplinary penalties on those of their members who refuse to participate in a strike. It also requests the parties to provide it with examples of the way the provision is applied in practice.

2. Indemnification of union members and officials  
(section 8 of the Act of 1988)

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. In its 1991 observation, while recognising that section 8 does not expressly state that unions may not adopt rules to this effect, the Committee had concluded that 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 considered 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.

In its report, the Government:

- (a) points out that section 8 only applies to fines or other financial penalties imposed on an individual for a criminal offence or contempt of court - conduct which is self-evidently in breach of the law of the land;
- (b) points out that where an individual merely acts as a passive "agent" of a trade union, any penalty is likely to be imposed on the union, but that where a penalty is imposed on an individual this would imply a clear finding of wilful and unlawful action by that individual;
- (c) having regard to Article 8(1) of the Convention in particular, cannot accept that provisions which declare unlawful the application of union funds or property to indemnify such individuals from the consequences of their own unlawful acts, and the consequential right of recovery of the money or property paid over, amount to a denial of any guarantee in the Convention.

Accordingly, the Government cannot agree that there is any need to amend the legislation as suggested by the Committee, since its present terms are not incompatible with any guarantee afforded by the Convention.

The Committee notes that, according to the Government, these provisions apply in extreme cases, i.e. cases in which a person is sentenced by a tribunal to a fine or another financial penalty for an illegal and wilful act manifestly constituting a breach of the national law (a criminal offence or contempt of court); in other cases, the penalties would probably be imposed on the trade union.

The Committee considers that indemnification of union members or officials in respect of legal liabilities they may incur on behalf of the trade union should be possible.

In order to be able to take a fully informed decision, the Committee asks the parties to supply it with information on the practical application of these provisions, in particular by providing

the texts of quasi-judicial or judicial decisions issued in these matters.

3. Immunities in respect of civil liability  
for strikes and other industrial action

In its 1991 observation, whilst recognising 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, the Committee maintained 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. Therefore, it repeated its request that the Government introduce legislation to enable workers and their unions to engage in industrial action in the circumstances discussed in detail in the Committee's 1989 observation.

In its report, the Government:

- (a) points out that UK law (i) continues to provide special protection against civil law liability that would otherwise arise wherever a trade union or any other person calls on workers to break contracts in contemplation or furtherance of a trade dispute with their employer; and (ii) provides a wide-ranging definition of "trade dispute" for this purpose;
- (b) observes that no change since 1979 to the law relating to the organisation of industrial action has in any way affected the position of workers - who remain free to choose to engage in industrial action whether in relation to a trade dispute with their employer, or in support of other workers or of some other objective;
- (c) cannot find in the provisions of the Convention any authority for the Committee of Experts' conclusion that the Convention requires that calling for, or otherwise organising, the particular forms of industrial action which it mentions ought to have legal protection.

Accordingly, the Government cannot accept that there is any need for further legislation concerning protection against civil liability for acts of calling for, or otherwise organising, industrial action on the grounds that this is necessary to ensure compliance with any guarantee afforded by the Convention.

The Committee is bound to note that no new arguments have been submitted to it that are likely to affect its previous comments; it continues to consider that some amendments to the law introduced since 1980 have had the effect of reducing or withdrawing legal protection against liability for various forms of strike and industrial action which ought not to give rise to legal liability. It refers in particular to the detailed observations it made on this question in its 1989 and 1991 reports, and again asks the Government to amend its legislation so as to enable workers and their organisations to take the forms of industrial action in question without incurring civil liability at common law.

In its communication of 22 January 1992, the TUC also submits that section 4 of the Employment Act of 1990 removes immunity in tort from all secondary action other than that arising in the course of peaceful picketing by workers at their own place of work.

Since the Government did not reply on this point which had already been raised in its 1991 observation, the Committee would ask it once again to provide full details on the objective and the effects of this provision in its next report.

#### 4. Dismissals in connection with industrial action

In its 1991 observation the Committee had asked once again 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. In addition, adopting the conclusions of the Committee on Freedom of Association in Case No. 1540, it invited the Government to modify section 62A of the Employment Protection (Consolidation) Act [inserted by section 9 of the 1990 Act].

In its communication of 22 January 1992, the TUC emphasises that section 62A enables an employer to dismiss selectively those taking part in unofficial action; thus, persons dismissed during an unofficial strike, even if they had not participated in the action, would have no right to complain of unfair dismissal. In addition, section 6 of the 1990 Employment Act [which amended section 15 of the 1982 Employment Act] widens the definition of what constitutes official action and extends unions' liability in tort; unions could now be held responsible for actions of their members over which they have no control.

In its report, the Government points out that Convention No. 87 is concerned with protection of the freedom to form employers' and workers' organisations and the rights of such organisations, but that the treatment of individual workers (including the matter of dismissal or disciplinary penalties being imposed by an employer) is a matter dealt with expressly in other Conventions notably Convention No. 98 - and are, accordingly, unable to see how the law relating to such dismissals or discipline of individuals falls to be covered by Convention No. 87.

The Government however replies on the merits and gives the following details on the law and practice:

- (a) it has always been the case that an employer is entitled to impose disciplinary penalties on workers who choose to take industrial action, including for example, denying them payment to which they would have been entitled if they had worked during the period they in fact took such action - and there appears to be no basis in the provisions of Convention No. 87 to deny employers' freedom to respond in this way to industrial action;
- (b) UK law has never included the principle for which the Committee of Experts contend, namely that any employer should be prevented from dismissing or imposing a penalty on workers during industrial action; since the UK law on unfair dismissal was

- introduced in 1971 it has always contained an exception relating to dismissals during industrial action;
- (c) UK law does not permit workers to be ordered, in any circumstances, to return to or remain at work; this freedom to decide whether to take industrial action - which, by its nature, must always be an individual decision on the part of any employee - applies regardless of the nature or scale of the effect of that action on their employers' business (either in absolute terms or in relation to the nature of the issues involved in the dispute);
  - (d) moreover, where employees are taking part in official industrial action - that is to say, action which is called for or otherwise organised by their trade union - an employee who is discriminated against by being dismissed while others taking part in the action are not dismissed can complain of unfair dismissal to an industrial tribunal; the same is true if all employees are dismissed but some are offered re-engagement within three months while others are not;
  - (e) in addition, UK employment law provides special protection for any employee who takes strike action by preserving any "qualifying period of employment" which the employee may have accumulated prior to taking such action - thereby protecting his or her future entitlement to many statutory employment rights (for example to redundancy pay), even though the employee has chosen to go on strike in breach of the terms of his employment contract;
  - (f) while workers' terms and conditions may be established by collective agreements made between employers and trade unions, in the UK there are not known examples of collective agreements legally enforceable between a union and an employer - which leaves UK employees free to decide to take industrial action without having to take into account potential consequences for their union in terms of its contractual obligations;
  - (g) it has long been a fundamental principle of UK arrangements that courts or tribunals should not be asked to adjudicate on the merits of a particular industrial dispute - and there is nothing in the provisions of any Convention ratified by the UK which would require different arrangements to apply in this respect.

Accordingly, the Government cannot accept that there is any justification for an argument that legislation along the lines suggested by the Committee of Experts is necessary to ensure that UK law is compatible with either (i) guarantees afforded by Convention No. 87, or (ii) respect for "the principles of freedom of association" in so far as these are identifiable in the provisions of that Convention itself.

The Committee must note in this connection as well that no new element has been brought forward and, in view of the fundamental importance of this question, remains convinced that conformity with the Convention requires that workers should enjoy real and effective protection against dismissal or any other disciplinary measure taken by reason of their participation, whether actual or proposed, in strikes or other forms of industrial action. It again invites the Government to amend its legislation on these lines. Furthermore it

repeats its recommendation that section 62A of the Employment Act of 1990 be amended.

#### 5. Complexity of the legislation

In its previous observations the Committee expressed its concern at the volume and complexity of legislative change since 1980 in relation to the matters covered by the Convention, and suggested that some reconsideration of the form and contents of the legislation would be advantageous.

In its report the Government confirms that it is willing to bring forward a "consolidation" measure as and when resources and the legislative timetable permit. Recalling the distinction between such a consolidation and a measure which would effect substantive changes to the present law, the Government reiterates its belief that nothing in UK general employment law is incompatible with any guarantee afforded by any ILO Convention ratified by the UK. Accordingly, it rejects the suggestion that there is any need for such a "consolidation" measure to include provisions which would effect substantive changes to the present law applying to industrial relations and trade union affairs.

The Committee notes that the Government is prepared to adopt measures of codification of the law on industrial relations and invites it to keep it informed, in its future reports, of the measures taken or contemplated in that respect.

The Committee refers to its foregoing comments with regard to the substantive provisions that present a problem in relation to the Convention.

#### Yugoslavia (ratification: 1958)

In its previous observation, the Committee requested the Government to report in detail on the comments submitted by the Union of Independent Trade Unions of Kosovo alleging violations, inter alia, of Conventions Nos. 87 and 98. These comments reported:

- the refusal of the Yugoslavian authorities to give effect to the Union's application for registration and to recognise the Union as an interested party in the collective bargaining process; and
- the dismissal of many workers and trade union officers who are members of the Union by reason of their participation in a strike or their refusal to be members of the Serbian Trade Union.

The Committee notes that the Government confines itself to indicating that a union of trade unions of Kosovo already exists, that the Union of Independent Trade Unions of Kosovo has no legal existence and, in effect, is a political organisation.

The Committee recalls that, under the terms of Article 2 of the Convention, workers shall have the right to establish organisations of their own choosing without previous authorisation. The fact that an organisation is not legally recognised by the authorities or under the legislation is insufficient grounds for concluding that it has no legal personality, since the principles of freedom of association require that workers shall have the right to establish organisations

of their own choosing without previous authorisation. As the Committee on Freedom of Association, the Committee of Experts considers that it enjoys full freedom to decide whether an organisation can be considered to be an industrial organisation in the sense of the ILO Constitution, and is not bound by any national definition of that term.

The Government is asked to provide in its next report a detailed reply to the specific comments made by the Union of Independent Trade Unions of Kosovo.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Benin, Burkina Faso, Colombia, Djibouti, Dominica, Ecuador, France, Guinea, Ireland, Kuwait, Niger, Peru, Poland, Romania, Somalia, Saint Lucia, Togo.

### Convention No. 88: Employment Service, 1948

#### India (ratification: 1959)

The Committee takes note with interest of the information provided by the Government in reply to its earlier comments. It notes, in particular, the information on the implementation of the recommendations of the Report of the Committee on the National Employment Service (the "Mathew Report") and on the measures that have been taken or are envisaged on the basis of these recommendations. It also notes the information concerning the application of Articles 2 and 3 (general organisation and extension of the networks of employment offices), 6 (functions of the Employment Service) and 8 (special arrangements for juveniles) of the Convention.

As regards Article 10, the Government indicates that tripartite committees on employment at the national, state and local levels are expected to play an important role in promoting the use of employment exchanges by the private sector and that with modernisation of employment services there will be qualitative improvement in the services offered by the employment exchanges, which will result in a substantial increase in the voluntary utilisation of the employment service by the private and public sectors. The Committee would be grateful if the Government would describe in more detail the role of these tripartite committees in promoting the use of employment exchanges by the private sector and would give particulars, when appropriate, concerning qualitative improvements in their services as a result of such modernisation.

#### Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government's report has not been received for the third year in succession. 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.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Brazil, Colombia, Ecuador, Guinea-Bissau, Lebanon, Libyan Arab Jamahiriya, Malaysia, Nicaragua, Panama, San Marino.

### Convention No. 89: Night Work (Women) (Revised), 1948 [and Protocol, 1990]

#### Dominican Republic (ratification: 1953)

The Committee refers to its previous comments concerning the need to amend section 219(6) 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 under Articles 4, 5 and 6 of the Convention. It recalls that it has been addressing this question in its comments for several years.

The last report refers to the discussions at the ILO concerning the adoption of a new instrument on night work. The Committee 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) (Revised) Convention, 1948.

The Committee hopes that the amendments to the legislation that have already been proposed will be adopted shortly to ensure that full effect is given to the Convention or that other measures will be taken in the light of the latest developments in the international regulation of night work. It asks the Government to report any progress made.



Ghana (ratification: 1965)

Article 4(a) of the Convention. The Committee refers to its previous comments which it has reiterated for several years 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. The Committee notes that the necessary steps have still not been taken to bring the legislation into conformity with the Convention. It trusts that the Government will shortly be able to report progress in this respect.

\* \* \*

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

**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.

**Convention No. 94: Labour Clauses (Public Contracts), 1949**Austria (ratification: 1951)

The Committee takes note of the information supplied by the Government in its latest report and, in particular, the comments made by the Austrian Congress of Chambers of Labour.

The Austrian Congress of Chambers of Labour expresses its view in relation to Article 5 of the Convention that there are many public authorities which order public works without applying the procedure of refusal of contract for infringement of the provisions of labour clauses or which let themselves be persuaded by interventions and give order again to the enterprises known for the non-observance of the labour clause. It also maintains that the application of other

sanctions is not ensured either, because of the lack of personnel in labour inspection, because of the type of organisations bound to take the sanctions, i.e. the local authorities, and because of the provisions of the penal law. It refers, in this connection, to its own comments made on the application of Convention No. 6 which the Committee noted in its direct request of 1990 on the said Convention.

In reply to these comments, the Government indicates the increase of labour inspection personnel by 15 persons and refers to the Code of ethics in the construction industry and, in particular, to the rules made thereunder. Point 4.50 of these rules concerning the adjudications for the orders of public works provides for the refusal of offer made by tenderers whose observance of the social laws of protection is not absolutely certain. The text of the said Code and point 4.50 of the rules as well as the statutes of the committee for the control of adjudications are supplied by the Government with its report.

The Committee notes this information and would be grateful if the Government would provide information on the cases in which point 4.50 of the above-mentioned rules is actually applied and on the practical application of other measures to ensure the observance of labour clauses in public contracts, including, for instance, extracts from official reports, in accordance with Article 5 and point V of the report form.

#### Brazil (ratification: 1965)

With reference to its previous observation, the Committee notes the Government's statement in its report that, while the Government considers that the practical application of the Convention is already ensured, the Ministry of Labour and Welfare is conducting studies with the view of revising legislation so as to fulfil all the requirements of the Convention. It also notes that the Government requests, in this regard, the collaboration of the International Labour Office with a view to elaborating draft legislation which ensures the application of the Convention in all of its terms.

The Committee trusts that the Government will take, in the very near future with the collaboration of the Office, necessary measures to ensure that all contracts with a public authority (as defined in Article 1, paragraph 1(c), of the Convention) include clauses guaranteeing that all workers concerned receive wages and conditions of employment not less favourable than those established for work of the same character as required by Article 2, paragraphs 1 and 2. It hopes that the Government will supply information on the steps taken.

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

#### Central African Republic (ratification: 1964)

The Committee notes the information supplied by the Government in its most recent report to the effect that a supplement to Decrees Nos. 61/135 and 61/137 of 19 August 1961 is currently under study in order

to take into account the Committee's suggestions. Noting that the Government has been mentioning such intention since 1982, 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 earlier 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)

Further to its previous comments, the Committee notes the Government's statement in its report that the comments of the Committee have been noted and that the issue has been placed before the National Advisory Committee on Labour with the view of bringing the national legislation into conformity with Articles 2 and 5 of the Convention (inclusion of labour clauses in public contracts, and application of adequate sanctions and measures to ensure the payment of wages). It hopes that progress will be reported in the very near future.

Meanwhile, the Committee notes the Government's indication in its report received on 18 December 1990 that no tender will be considered if it is not accompanied by a statement obtained from the Labour Department certifying the tenderer's compliance with rules, regulations and laws on remuneration and conditions of employment. The Committee requests the Government to supply further information on the manner in which the conditions of employment (including wage rates and hours of work) the tenderers are thus required to comply with are established, and a copy of such certificate.

#### Guinea (ratification: 1966)

The Committee notes the Government's statement in its report that the State is not directly involved in the contracts between the enterprises which are awarded public contracts by the State and their workers. The Committee recalls that by ratifying this Convention, the State undertakes among others to ensure that the contracts awarded by a public authority involving the employment of workers by the other party, contain clauses guaranteeing to the workers concerned conditions of labour which are not less favourable than those established for work of the same character in the enterprises of the trade or industry concerned in the same district (Article 2 of the

Convention) and that adequate sanctions will be applied for failure to observe and apply these clauses (Article 5).

The Committee also notes that the private enterprises which are awarded public contracts are obliged to comply with the legislative provisions such as the Labour Code in relation to the workers employed by them. It recalls that the application in general of the national labour legislation to the workers does not release the Government from the obligation to take the necessary measures to ensure the inclusion and application of labour clauses as required under the Convention. The Committee again hopes that the Government will take the necessary measures in the near future to ensure the inclusion of such clauses in all public contracts covered by Article 1, paragraph 1(c), and consequently to give effect to the Convention.

Panama (ratification: 1971)

The Committee notes from the Government's report that the draft Decree to give effect to this Convention which it noted in its 1987 observation is no longer being studied for adoption because of the development in the public administration of the country. It further notes that the new national Government has taken note of the Committee's comments and is disposed to study the possibilities of taking the provisions of the Convention into a legislative instrument after consultation with all the sectors and entities concerned.

The Committee hopes that the Government will take necessary measures to ensure the application of the Convention in the near future. It is also addressing a direct request to the Government regarding the Specifications of Public Tenders (Model Articles and Conditions) supplied with the Government's report.

Rwanda (ratification: 1962)

Further to its previous comments, the Committee notes with regret that no progress has been made towards the adoption of proposed legislation regulating public contracts, the Bill of which the Government's report first mentioned in 1983.

It also notes that the Government refers in its latest reports to sections 2 and 3 of the Labour Code (Act of 28 February 1967) defining, respectively, "the worker" and "the employer". As the Committee has already pointed out in its earlier comments, the fact that general labour legislation applies without distinction to all workers does not release a government from the obligation under this Convention to ensure the inclusion in the public contracts specified in Article 1, paragraph 1, of the Convention of appropriate labour clauses so as to guarantee that the conditions of work (including wages) of workers employed under public contracts are not less favourable than those established for work of the same character in that trade or industry in the same region, in accordance with Article 2.

The Committee therefore requests the Government to take necessary measures to ensure the application of the Convention, through legislation or otherwise, and to report on any progress made.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Bahamas, Grenada, Panama, Saint Lucia, Uruguay.

Information supplied by Syrian Arab Republic in answer to a direct request has been noted by the Committee.

### Convention No. 95: Protection of Wages, 1949

#### Bolivia (ratification: 1977)

The Committee recalls that in its previous requests, it referred to the comments it made in 1983 concerning the application of Convention No. 117, regarding alleged abuses in the payment of wages to agricultural workers, in such forms as the pay stoppages and delay in the payment of wages as a means of inducing workers to remain in agricultural establishments, and the non-payment of wages due and advances on wages, which cause indebtedness among the workers and compel them to remain in the service of landowners until their debts are written off. These allegations were presented in August 1977 by the Anti-slavery Society for the Protection of Human Rights to the Working Group on Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Committee notes with regret that the Government has not supplied information in this respect and again requests the Government to indicate whether it has conducted investigations into the above-mentioned allegations and to provide any available information.

The Committee is also addressing a direct request to the Government concerning certain points.

#### Brazil (ratification: 1957)

The Committee refers to its comments on Conventions Nos. 29 and 105, and in particular, the allegations concerning deductions from wages to cover the transport and food costs of workers in various sectors of agriculture and mining.

The Committee requests the Government to examine these allegations in the light of the provisions of Articles 6 (prohibiting employers from limiting in any manner the freedom of the worker to dispose of his wages), 8 (conditions and limits of deductions from wages to be prescribed by national laws or regulations or fixed by collective agreement), 9 (prohibition of deductions from wages with a view to obtaining or retaining employment) and 10 (procedures and limits of attachment or assignment of wages). It also asks the

Government to provide information on any infringements registered and the sanctions prescribed in this regard.

Dominican Republic (ratification: 1973)

The Committee notes the Government's report and the discussion in the Conference Committee in 1991 on the application of Conventions Nos. 95 and 105 by the Dominican Republic.

Protection of wages in sugar plantations

In its previous observation, the Committee requested the Government to re-examine in the light of the Convention, the procedures for determining and paying wages. It also requested 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 open to scrutiny. The Committee hoped that programmes to sell food at low prices would be continued with greater vigour.

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 noted the wage increase for the sugar-cane harvest in 1990-91 and considered that although the new rates for the cutting and transport of sugar-cane improved the chances of a greater number of cane-cutters earning the statutory minimum wage, the increase, while significant, was lower than the increase in the cost of living.

The Committee requested the Government to supply information on the wages that were actually paid to workers and to supply, for example, extracts of the payrolls of various state or private plantations.

The Committee notes that the Government supplied the wage rates for various agricultural tasks in plantations, but that no information was received concerning the wages actually paid, and that it is not therefore in a position to ascertain that cane-cutters are paid the minimum wage for an eight-hour day.

The Committee requests the Government to supply information on any measures that have been taken to guarantee the payment of the minimum wage and to indicate whether there have been increases in wages in the agricultural sector or for work on the sugar-cane harvest.

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 concerning the introduction of more effective measures 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 with interest the Government's indications concerning the activities of special delegations set up in plantations under Decree No. 417/90 and the reports of the inspection services which describe some contraventions and the sanctions which were imposed.

The Committee requests the Government to supply information on the situation concerning the weighing of sugar-cane in plantations which do not belong to the State Sugar Board (CEA) and to state whether workers' organisations have been associated with the supervision of the weighing.

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 workers to receive advances on wages in cash.

The Committee notes the Government's indication in its report that the draft Labour Code will repeal section 200 of the current Labour Code and will abolish the possibility that currently exists for agricultural enterprises to make advances on wages in the form of wage tickets. It also states that at the present time advances of wages paid in wage tickets can be converted into cash in the stores set up by the National Price Stabilisation Institute (INESPRE), which is a partial solution to avoid abusive discounts. The Committee also notes the social development programme that is currently being carried out by the CEA in its plantations and sugar plants ("bateyes").

The Committee requests the Government to indicate how often wage tickets are converted into cash in the stores of the INESPRE.

4. Article 14 (workers' information)

The Committee requested the Government to supply information on any measures taken to ensure that all workers are informed of the conditions in respect of their wages.

In this regard, the Government states in its report that the inspectors operating in plantations have been instructed to provide advice to workers who require it. It adds that illiteracy and the lack of knowledge of Spanish among plantation workers makes it difficult to disseminate information.

The Committee requests the Government to supply information on what further measures have been taken or are envisaged to give effect to this requirement of the Convention.

Iraq (ratification: 1960)

1. The Committee notes that the Governing Body adopted at its 250th Session (May-June 1991) the report of the Committee set up for the examination of the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution, alleging non-observance by Iraq of a certain number of Conventions, including Convention No. 95.

The Governing Body invited the Government to take all appropriate measures so that the parties may determine the number of workers involved and the amounts owed to them, to take measures necessary for the effective payment of the amounts owed to the Egyptian workers thus determined within the shortest possible period and to communicate information on the measures taken or envisaged in the report under article 22 of the Constitution.

The Committee also notes that in this connection the Federation of Egyptian Trade Unions communicated in a letter dated 13 August 1991 information gathered so far by the Government of Egypt concerning the number of Egyptian workers with assets in Iraqi banks and savings banks (which stands at 220,886), and the total amount of such assets (495,274,700 US dollars), including the amount of transfer ordered but frozen on 16 June 1991. A copy of this letter was transmitted to the Government of Iraq for comments.

In response to the recommendations of the Governing Body and to the above-mentioned communication by the Federation of Egyptian Trade Unions, the Government of Iraq supplied information as follows in letters dated 30 September and 16 November 1991, respectively:

The Government indicates that the amounts due to the Egyptian workers were paid in Iraqi dinars, except for the portion due in foreign currencies which it was impossible to pay because of the attack against Iraq and the embargo imposed, which prevents its oil export and causes the freeze of its assets in foreign banks. It again states its readiness to pay the amounts due in foreign currencies in the form of oil or any other goods agreed by the two countries. The Government also states that the transfer of the savings by Egyptian workers amounting to more than 160 million US dollars was authorised in the first half of 1990. It further declares its concern about protecting the rights and the amounts due to the Egyptian workers, and commits itself to pay the amounts due after the disappearance of the causes and circumstances mentioned above. Regarding the above information, the Government refers to a statement made by a responsible authority in the Ministry of Labour and Social Affairs and published in the journal Al Thawra of 21 August 1991.

Besides, the Government indicates that a deposit in the Bank of New York of an amount of 22 million US dollars, in the name of the Bank Al Rafidine of Cairo, was frozen, but that the Egyptian Central Bank, after having contacted with the American authorities, succeeded in unblocking the amount so as to pay certain amounts due to the Egyptian workers.

The Committee takes due note of the above information. It notes that the transfer of 160 million US dollars authorised in the first half of 1990 precedes the date (June 1991) regarding which the Federation of Egyptian Trade Unions communicated the information noted



above. It requests the Government to specify whether the amount of 22 million US dollars unblocked constitutes a part of the amount of assets belonging to Egyptian workers to which the Federation of Egyptian Trade Unions refers.

The Committee requests the Government to continue supplying information on any measures taken or envisaged with the view of further determining the number of workers involved and the amounts owed to them and of the effective payment of such amounts.

2. The Committee recalls that it requested in its observation of 1990, i.e. prior to the above-mentioned representation, the Government to supply information on certain points regarding the payment of wages to foreign workers, especially those from the Philippines. It has also noted the discussions concerning the application of this Convention in Iraq and in the Philippines at the Conference Committee in June 1990, and the information supplied by the two Governments in their reports.

The Government of Iraq refers in its report for the period ending June 1990, to the provisions of Part IV of the Labour Code (Act No. 71 of 1987), concerning the protection and the payment of wages, states that the transfer of a part of wages of non-Iraqi workers is done in accordance with the instructions of competent services on the transfer to foreign countries, and indicates that, concerning the negotiation that took place in July 1990 between the Governments of Iraq and of the Philippines, it was agreed to continue applying the bilateral Manpower Agreement of 1982. An Iraqi Government representative indicated at the Conference Committee, in this regard, that his Government had agreements with other countries such as Bangladesh, Tunisia and Morocco. The Government of the Philippines provides in its report on Convention No. 95 more detailed information on the meeting in July 1990, including the discussion on arrangements on wages and remittances of Filipino workers, and indicates that subsequent meetings did not materialise as a result of Iraq's invasion of Kuwait.

The Committee takes due note of the above information. It notes that section 7 of the Labour Code prescribes the treatment of Arab workers on an equal footing with Iraqi workers in regard to the rights and duties set forth in the Code, and that the above Agreement between Iraq and the Philippines stipulates in paragraph 8 that workers (from the sending country) should enjoy the rights, duties and privileges accorded the national workers of the receiving country. Recalling that the Convention applies to all persons to whom wages are paid or payable (Article 2(1)), the Committee requests the Government to indicate what measures have been taken or envisaged concerning the protection of wages of non-Arab foreign workers except for the Filipinos, including the texts of existing agreements and/or any agreements under consideration. Please also supply further information on the regulations and procedures for the remittance of a part or all of the wages to the country of origin of the foreign workers.

The Committee further notes that the above bilateral Agreement will continue to be in force until 1992, according to the agreed minutes of the meeting of July 1990 supplied by the Philippine Government. It requests the Government of Iraq to continue supplying

information on any further negotiation or agreements in this regard, as well as on any practical difficulties in the application of the Convention in relation to the protection of wages of the Filipino workers employed in Iraq.

[The Government is asked to supply full particulars to the Conference at its 79th Session and to report in detail for the period ending 30 June 1992.]

Libyan Arab Jamahiriya (ratification: 1962)

Further to its previous observation, the Committee notes with interest that 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) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) has been withdrawn after an agreement has been reached between the parties concerned.

The Committee is also addressing a direct request to the Government regarding certain points.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Austria, Belgium, Bolivia, Burkina Faso, Central African Republic, Colombia, Comoros, Cuba, Dominica, Grenada, Guinea, Guyana, Islamic Republic of Iran, Italy, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritius, Nicaragua, Niger, Saint Lucia, Sierra Leone, Solomon Islands, Sri Lanka, Yemen.

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

**Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949**

Finland (ratification: 1951)

Part II of the Convention. The Committee takes note of the information provided by the Government in reply to its earlier comments. It notes, in particular, that a work group set up by the Ministry of Labour made in 1989 an extensive survey on the development of the hiring of labour and measures required to eliminate the existing problems. The Government indicates that the work group saw no need to amend the basic principles of the system for hiring labour or to make any significant changes in the regulations concerning hiring, but it brought up some problems and deficiencies related to legislation and practical hiring, as well as to monitoring and supervision. The Committee also notes the adoption of Decree No. 59/1991 on the amendment of the Decree on the Hiring of Labour, which came into force on 1 February 1991, forbidding "chain hiring", particularly in the field of entertainment. The Government further

states that a reform of manpower services legislation began in 1990 in order to clarify the definition of labour exchange in relation to such functions as subcontracting, hiring of labour, assistance in recruitment and providing information on vacancies.

In this connection the Committee also notes the statement of the Central Organisation of Finnish Trade Unions (SAK) to the effect that hiring of labour from abroad is on the increase, and that this will cause problems in terms of supervision, for it is difficult to distinguish between various forms of subcontracting and hiring in Finnish legislation. The Government indicates in its report that the hiring of foreign labour has been regulated through work permit procedures, and that, apart from entertainment, no work permits have been granted to those employed by labour hiring agencies, since it has not been considered possible for the hiring agency to guarantee continued employment.

The Committee notes this information. With reference to its previous comments, it asks the Government to keep it informed of the development and results of the reform of manpower services legislation referred to above, with particular emphasis on the regulation of hiring of labour, in relation to the Convention.

#### Pakistan (ratification: 1952)

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:

Part II of the Convention. The Committee took note of the information supplied by the Government in its report. It also noted the information provided to the Conference Committee and the discussion on that occasion. The Committee noted in particular from the Government's report that the Provincial Governments had been requested to let the Federal Government have their views with regard to the application of the Fee-Charging Employment Agencies (Regulation) Act, 1976, in the different parts of the country. Further to its earlier comments, the Committee cannot but reiterate the hope that the Government will take the necessary measures to bring the Act into operation at an early date, or will adopt any other relevant provision, to give legislative effect to the requirement of the Convention, concerning the abolition of fee-charging employment agencies (Article 3 of the Convention).

The Committee also noted the information supplied by the Government as regards the regulation of the "overseas employment promoters", under the Emigration Ordinance, 1979 and Rules made thereunder. It would be grateful if the Government would continue to supply, in its future reports, any relevant information on the fee-charging employment agencies for which exceptions are allowed under Article 5 of the Convention, as required under Article 9 of the Convention and point V of the report form.

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

Syrian Arab Republic (ratification: 1957)

Part II of the Convention. With reference to its earlier comments, the Committee notes from the Government's reply to its previous observation that the Bill to repeal sections 18 and 22 of Labour Code No. 91 of 1959, which authorised the setting up of private employment agencies, and to amend section 11 of the Code so as to extend to domestic and similar workers the application of the chapter concerning placement of unemployed persons, is currently being examined by the Council of Ministers with a view to its enactment. The Committee trusts that these changes to the Labour Code, on which it has been commenting for many years, will be adopted in the very near future and will ensure that the national legislation is in full conformity with this part of the Convention. The Committee notes the Government's assurances that it will transmit all further information on this matter to the ILO, and hopes that the next report will confirm that progress has been made towards taking full account of the Committee's repeated comments.

[The Government is asked to report in detail for the period ending 30 June 1993.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Bolivia, Côte d'Ivoire, France, Luxembourg, Malta, Norway, Poland, Spain, Swaziland, Turkey.

**Convention No. 97: Migration for Employment (Revised), 1949**United Kingdom (ratification: 1951)

The Committee has taken note of the communication from the Trades Union Congress addressed to the Secretary of State for Employment on 19 December 1991, a copy of which was sent to the International Labour Office. By a letter of 10 January 1992 the Office informed the Government that, in accordance with established practice, that communication, as well as any comments that the Government might wish to make on the points raised therein, would be brought to the attention of the Committee of Experts at the March 1992 Session. According to the communication, the General Council of the Trades Union Congress is firmly opposed to the Asylum Bill which, if enacted, would abandon the basic right of equal treatment under the law for all residents, and to the proposal to denounce Convention No. 97 and Article 19.4(c) of the European Social Charter.

With regard to Convention No. 97 the General Council points out that the Convention is concerned with protecting the basic rights of immigrants and that, as the Government itself has taken pains to point out, asylum-seekers are not immigrants. The Trades Union Congress considers that, before taking any decision, it would be sensible to

check with the Office whether the measures proposed in the Asylum Bill have a bearing on the application of the Convention.

The Committee notes that the Government has made no comment on the points raised in this communication. It hopes that the Government will be in a position to ask the Office for technical advice before taking a final decision concerning the denunciation of that Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Germany, Grenada, Guyana, Italy, Saint Lucia.

Information supplied by Brazil, Jamaica in answer to a direct request has been noted by the Committee.

### **Convention No. 98: Right to Organise and Collective Bargaining, 1949**

#### General observation

In its comments on the application of this Convention in several countries, the Committee has drawn attention to actions that have either impaired freedom of association or have interfered with the utilisation of the machinery for the voluntary negotiation of collective agreements.

On the first point, noting the inadequacy of protection in certain countries against acts of anti-union discrimination, the Committee would ask governments in their report of this Convention and employers' and workers' organisations in their communications:

- (a) to state whether any legal or administrative machinery exists to ensure protection against acts of anti-union discrimination or acts of interference;
- (b) to indicate the channels of appeal that exist to settle such matters; and
- (c) to specify the penalties provided for in the legislation for this purpose.

On the second point, certain governments have chosen to intervene in the free negotiation between employers or their organisations and trade unions for the regulation of terms and conditions of employment. In most instances, such interference has been said to be essential for the economic well-being of the State. Periods of sharply declining economic activity have led, and it must be anticipated, will continue to lead, to governments taking steps in an attempt to stabilise or ameliorate the situation. Measures appear to take the form of short-term correctives or of longer term "special" solutions. The former are usually characterised as emergency measures with a return to "normality" envisaged, whereas the latter may well become features having a permanent effect on industrial relations structures.

In an earlier general observation - see the Committee's 1981 Report (ILC, 67th Session, 1981, Report III (Part 4A), at p. 139) - the Committee showed its awareness of these difficulties which, it

appears from recent reports, are again causing considerable concern. So that it may develop its comments along well-founded principles and practice, the Committee would once again ask that governments, in their report on this Convention, and employers' and workers' organisations in their communications, pay particular attention to the following items:

1. Where emergency measures have been taken that disrupt normal collective bargaining arrangements, please indicate:
  - (a) the length of such interruptions;
  - (b) the extent and nature of prior consultation with employers' and workers' representatives;
  - (c) any procedure introduced to allow consideration of special cases of hardship;
  - (d) when such intervention has ended, its effect, if any, on the continued functioning of the traditional bargaining machinery; and
  - (e) other relevant information on the effects of the intervention.
2. Where more permanent steps have been taken to tackle economic problems such as "wages policies", "pay restraint" and "export processing zones", please indicate what effect such steps have had on the normal pattern of collective bargaining and please describe:
  - (a) the extent of consultation prior to action being taken;
  - (b) safeguards put in place to ensure the continued protection of workers;
  - (c) methods developed within these special situations to meet the obligations under the Convention; and
  - (d) bodies of a policy or juridical nature created to ensure regular supervision of employment practices.

Austria (ratification: 1957)

The Committee has taken note of the Government's report.

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 interest the Government's statement that the extension to these workers of the general protection against dismissal has been for some time one of the major objectives of social policy in Austria, and that the Ministry of Labour and Social Affairs will endeavour to reach this goal, the attainment of which has been so far impossible due to the employers' opposition. The Government adds that it will reintroduce this question during negotiations with the social partners, but that the presentation of a bill on the subject seems useless for the time being since there is no majority in the National Council to ensure its adoption.

The Committee emphasises that the protection of workers against anti-union discrimination is an essential aspect of the Convention and reiterates 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 invites the Government rapidly to initiate measures with a view to implementing its stated objective of extending to workers in enterprises with less than five employees the general protection against dismissals, including for union activities. It requests once again the Government to indicate in its next report the measures so taken or the developments on this issue.

#### Cape Verde (ratification: 1979)

The Committee takes note of the promulgation of Legislative Decree No. 170/91 of 27 November 1991 repealing Legislative Decrees No. 50/80 of 12 July 1980 and No. 166/85 of 30 December 1985.

The Committee notes with satisfaction that the new Decree embodies in section 11 the protection of freedom of association in employment, by providing in subsection (a) for the prohibition of any agreement or act designed to make the engagement of a worker conditional upon his joining or not joining a trade union organisation or withdrawing from one which he has joined, and in subsection (b) by making it unlawful to prejudice a worker in any way by dismissing him or transferring him to another post on the grounds of his joining or not joining a trade union organisation or of his trade union activities. Section 37(3) provides for a fine in case of inobservance of the above provisions.

The Committee reminds the Government that it has taken note with interest clauses 20 and 25 of Legislative Decree No. 62/87 of 30 June 1987 concerning collective bargaining. In this connection the Committee again asks the Government to report on developments in the practice of collective bargaining (number of agreements concluded at the national, regional or local level and sectors covered). The Committee expresses the hope that at its next session it will have before it the Government's reply on this subject.

#### Colombia (ratification: 1976)

The Committee takes note of the Government's report, the discussions that took place at the Conference Committee in 1991 and the report on the direct contacts mission conducted in Colombia from 16 to 20 September 1991.

The Committee observed that section 57 of Act No. 50 of 28 December 1990 amends section 406 of the Labour Code so as to permit the establishment of "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 requested 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 any other provisions of laws or regulations) against acts of anti-union discrimination.



With regard to the right to collective bargaining by organisations of public employees, the Committee recalled that the Convention covers all workers, the only possible exception being public servants who are engaged in "the administration of the State"; it requested the Government to take measures to amend the legislation (sections 414 and 416 of the Labour Code) in order to grant to 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 asked the Government to report on any developments in this respect. Furthermore, the Committee notes the information contained in the mission report, to the effect that a Presidential Directive (No. 38 of 26 December 1990) confirms the prohibition placed on unions of public employees from concluding collective agreements (section 416 of the Labour Code).

The Committee again requests the Government to provide detailed information in its next report on the questions raised and expresses the hope that it will be able to note concrete improvements in the application of the Convention in the near future.

#### Ecuador (ratification: 1959)

The Committee notes the Government's report, and in particular the adoption of Act No. 133 published in the Official Bulletin on 21 November 1991 to reform the Labour Code.

Article 1 of the Convention. The Committee notes with interest that the new Act No. 133 provides that employers may not dismiss any of their workers from the time that they notify the respective labour inspector that they have met in a general assembly in order to establish a workers' association until the first meeting of the executive committee, and that the same prohibition applies from the time that a draft collective agreement is submitted.

The Committee notes with regret that the above legal text does not contain amendments dealing with the lack of protection against acts of anti-union discrimination at the time of recruitment, despite the fact that the Committee has been pointing out for many years that the lack of such amendments is incompatible with the Convention.

Articles 4 and 6. The Committee takes due note of the fact that Act No. 133 introduces into the Labour Code the possibility for workers in the public sector who are covered by the Labour Code to be able to bargain collectively. Nevertheless, the Committee notes in this respect that by virtue of section 230, as amended, of the Labour Code, 50 per cent of all workers in the public sector who are covered by the Labour Code, or of the private sector working in the social or public spheres, have to establish a single national, regional, provincial or sectoral central committee, as appropriate, in order to submit a draft collective agreement. The Committee considers that as a minimum the most representative trade union organisation should be able to bargain collectively on behalf of its own members, even if its own membership does not reach the minimum level of 50 per cent established by the new Act (see paragraph 295 of the 1983 General Survey on Freedom of Association and Collective Bargaining). The



Committee also notes that the imposition of a compulsory arbitration procedure before the Conciliation and Arbitration Court, if the parties do not reach agreement on a draft collective agreement, raises problems in relation to the application of the Convention.

Furthermore, the Committee regrets to note that no amendment has yet been made to the provision, which for many years the Committee has been drawing attention to is incompatible with the Convention, that prohibits public sector workers who are not covered by the Labour Code from bargaining collectively, since the only exception to the coverage envisaged by the Convention is public servants engaged in the administration of the State.

The Committee notes the Government's information concerning the submission on 22 May 1990 to the Secretariat of the National Congress by a member of the Congress of four draft texts of amendments and two legal interpretations, the purpose of which is to bring the national legislation into conformity with the Convention.

The Committee once again urges the Government to take the necessary measures in the near future to bring its law and practice into full conformity with the Convention and requests it to supply detailed information in this respect in its next report.

Finally, the Committee requests the Government to provide detailed information in its next report on whether federations and confederations can bargain collectively, particularly at the branch level (and to indicate the situation in law and practice).

#### Finland (ratification: 1951)

The Committee takes note of the report submitted by the Government. It notes with interest that, following its earlier comments, amendments to the Contracts of Employment Act (No. 595/91) came into force on 1 September 1991, whereby the compensation to be paid by an employer for illegal dismissals of shop stewards or of employees having participated in industrial action has been raised to a minimum of three months and a maximum of 24 months' wages.

#### Greece (ratification: 1962)

With reference to its previous observation, in which it requested the Government to indicate the measures that have been taken to re-establish the autonomy of the social partners in the negotiation procedures for wage increases, the Committee notes the information supplied by the Government in its report to the effect that the League of Greek Industries and the Greek General Confederation of Workers, following free collective bargaining, have signed a new national general collective labour agreement for a two-year period covering 1991 and 1992.

The Committee trusts that the principle of the voluntary negotiation of collective agreements, and therefore the autonomy of the social partners, which is a fundamental aspect of freedom of association, will be respected in future and requests the Government

to continue supplying full information in this respect in its future reports.

Guinea-Bissau (ratification: 1977)

The Committee notes with interest from available ILO records the adoption by the Parliamentary Assembly of laws respecting freedom of association and the right to strike.

Article 1 of the Convention. The Committee takes due note of the fact that the new Act respecting the right to freedom of association provides in section 10 and section 48(3) for the protection of freedom of association in employment, forbidding discrimination against workers, including at the time of recruitment, on the grounds of their membership or non-membership of a workers' organisation and prohibiting them from being obliged to leave such an organisation under the penalty of a fine.

Article 2. The Committee also notes with interest that the new text provides in section 5, subsection 1 and 2, and section 48, subsection 3: for protection of trade unions against any act of interference in respect of their establishment, functioning, administration or activities; and prohibits employers or employers' associations from favouring workers' organisations by granting economic or financial advantages with the object of interfering in their functioning or subordinating them to objectives which are different from their own aims, again under the penalty of a fine.

The Committee requests the Government to inform it when the above Acts are published in the Official Bulletin and to state the date of their coming into force.

Iceland (ratification: 1952)

The Committee takes note of the Government's report and of the observations from the Icelandic Federation of Labour (ASI).

The Committee notes that following negotiations between the social partners, an agreement on wages and work conditions was concluded in February 1990, to remain in force until September 1991. This agreement also provided for the establishment of a special Wage Committee, with representatives of the Icelandic Federation of Labour and the Confederation of Icelandic Employers, which the Government considers as one of the most important features of the agreement. This committee appears to play a central role in collective bargaining since it has the power to award wage increases, based on several criteria, although it must apparently seek agreement on its decisions.

The Committee therefore requests the Government to keep it informed in its next report of the activities and decisions of the wages committee.

Jamaica (ratification: 1962)

The Committee takes note of the information contained in the Government's report and recalls that its previous comments dealt with the following points:

- the broad powers of the Minister to cause a ballot to be taken to choose the bargaining agent (section 5 (1) of the Labour Relations and Industrial Disputes Act, 1975 (No. 14) and sections 3 (1) and 3 (2) of the regulations issued thereunder), without the right of appeal;
- the denial of the right to negotiate collectively in the case of the workers in a bargaining unit when these workers do not amount to more than 40 per cent of the unit or when, if the former condition is satisfied, a single union that is engaged in the procedure of obtaining recognition does not obtain 50 per cent of the votes of the workers in a ballot that the Minister has caused to be taken (section 5 (5) of Act No. 14 of 1975, and section 3 (1)(d) of the regulations issued thereunder).

For several years, the Committee has been requesting the Government to take measures to amend the provisions concerning the procedure for designating a union as bargaining agent so as to eliminate the discretionary powers of the Minister and to enable the workers of a bargaining unit to bargain collectively, even where the conditions relating to the numbers in a trade union and the votes cast in a ballot are not satisfied.

In its report, the Government indicates that in its view the criteria for determining bargaining rights are objective since the Regulations of the Labour Relations and Industrial Disputes Act are fairly rigid and explicit.

The Government adds that if minority representation were allowed to occur, it is very likely that chaos would result given the multiplicity of trade unions that now exist in its country. It asks moreover what would be the minimum percentage of membership required for a trade union to have bargaining rights. The Government states that in any event, the system of recognition has worked reasonably well since its inception.

While noting these statements, the Committee is bound to point out that 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. Moreover, the Committee recalls that, if under a system of nominating an exclusive bargaining agent, no union can be designated as representing the required percentage, collective bargaining rights should be granted to the most representative union in the unit.

The Committee hopes that the amendment to the labour legislation will be along the lines of its comments and, once again, 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 takes note of the Government's report.

It recalls that, for several years, its comments have addressed the following points:

- (1) the absence of specific provisions accompanied by sufficiently effective sanctions to ensure 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. Article 2 (protection of workers' organisations against acts of interference). The Committee observes that, in its report, the Government merely indicates that the draft Labour Code contains a provision guaranteeing the protection of workers and trade union representatives engaged in trade union activities against any arbitrary measure on the part of employers by reason of their activities, in accordance with the observation of the Committee of Experts and in order to fill the void in the law currently in force.

The Committee must again remind the Government that on ratifying the Convention it undertook to adopt specific measures to protect not only workers and their representatives against acts of anti-union discrimination, but also workers' organisations against acts of interference on the part of employers and employers' organisations which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means with the object of placing such organisations under the control of employers or employers' organisations. The Committee therefore again requests the Government to adopt specific measures in the near future to bring its legislation into line with Article 2 of the Convention.

2. Protection of agricultural workers and domestic workers. In this connection, the Committee observes that, in its report, the Government repeats the information that it supplied previously to the effect that the draft Labour Code will apply to all or to a considerable part of agricultural workers. It adds that the proposed Code will not apply to domestic personnel but provides that gardeners and cooks working for private households and similar workers may come under regulations established by the Council of Ministers on the proposal of the Ministry of Labour which will govern their conditions of employment.

The Committee once again stresses the need to 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 asks the Government to take the necessary measures in the very near future to apply the Convention, and to indicate any progress made in this respect in its next report.

Liberia (ratification: 1962)

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

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);
- the absence of provisions ensuring adequate protection against acts of anti-union discrimination and granting the right of collective bargaining to public servants not engaged in the administration of the State, to agricultural workers and to seafarers.

The Committee notes that the National Commission that has been given the task of examining international labour Conventions has recommended that sections 4(d) and 34 of the Act of 1975, and sections 63, 64, 65 and 67 of the Labour Code be repealed or amended.

The Committee emphasises the necessity of adopting measures to guarantee protection against acts of anti-union discrimination and to secure the right to bargain collectively for public servants not engaged in the administration of the State, agricultural workers and seafarers.

It hopes that the Government will make every effort to take the necessary measures in the very near future and that it will supply information in its next report on any progress that has been achieved on these various points.

#### Malaysia (ratification: 1961)

The Committee recalls its previous observations concerning inconsistencies between the national legislation and Article 4 of the Convention which covered the following points:

- limitations on the scope of matters open to collective bargaining (section 13(3) of the Industrial Relations Act, 1967);
- the prohibition from including in collective agreements for so-called "pioneer enterprises" and for any other industry which might be specified by the Minister, provisions that are more favourable than those contained in Part XII of the Employment Ordinance, 1955 (section 15 of the Industrial Relations Act); and
- restrictions on the right to bargain collectively for employees in public administration other than those engaged in the administration of the State (section 52 of the Industrial Relations Act).

In general, the Committee takes note of the Government's view that there should not be a legalistic or technical approach taken over the application of ratified Conventions in this era of increasing protectionism adopted by certain trading blocs and that the attempts by developing countries to develop their economies and eradicate poverty should be looked at in a positive light. Noting further that the Government undertakes to take appropriate measures to amend its

laws as and when the political, economic and social conditions of the country warrant it, the Committee points out that the Government's aims would be assisted rather than obstructed by the functioning of a full and free system of collective bargaining, such as promoted by Article 4 of the Convention. Moreover, while aware of the various socio-economic pressures facing member States, the Committee would recall that it has always carried out its task of monitoring the application of ratified Conventions on the basis of the universality of standards, assessing the effect given to the obligations arising from ratification irrespective of the political, social or economic systems or level of development prevailing.

1. The Committee notes the information supplied in the Government's reports, in particular its comments that those areas listed in section 13(3) of the Industrial Relations Act are regarded as common law rights of employers which should not be the subject of negotiations because this could lead to prolonged strife since managers are unlikely to agree to any erosion of their rights during the process of negotiating a collective agreement. As in past reports, it stresses that workers and unions nevertheless can raise these issues with employers if employers exercise their rights unfairly or with mala fide, and can even raise them as trade disputes subject to conciliation proceedings and referral to the Industrial Court. The Committee notes with interest that according to the Government's report when disputes arose over dismissals of workers, retrenchments and layoffs, promotions, allocation of duties, transfers, demotions and other management prerogatives they were treated in the same manner as proposals for collective agreements are treated, namely through negotiations, conciliation and arbitration. The Committee is of the opinion that the legislative exclusion from bargaining of certain matters relating to conditions of employment (such as those in this case: promotion, transfer, appointment, dismissal and assignment of duties) is not compatible with Article 4 (General Survey, 1983, paragraphs 307 and 311). It accordingly again asks the Government to take steps to bring section 13 into line with the obligations arising under the Convention - and with its description of the actual practice concerning these issues which is equivalent to collective bargaining practices in Malaysia.

2. Regarding the Committee's comments on section 15 of the Industrial Relations Act, the Government states that the granting of pioneer status to certain industries is part of its various strategies within its macro strategy to promote investment, stimulate industrial growth and generate greater employment opportunities; it stresses that section 15 does not limit negotiations on monetary items (wages, allowances) but only on hours of work, holidays, annual leave and sick leave and this only for a period of five years. It points out that this is not a complete ban since the parties can negotiate more favourable terms in these industries and seek the approval of the Minister; he has to date never rejected any such request made to him. The Committee notes these various comments but indicates that this provision is contrary to the principles set forth in Article 4 which aims at voluntary collective bargaining free of the obligation of submitting concluded agreements to administrative authorities for approval (General Survey, paragraphs 308 and 311). Noting with



interest that the Minister has never rejected an agreement which accords more favourable terms on these items, the Committee invites the Government once again to amend section 15's limitation on bargaining.

3. The Committee takes note of the Government's statements that the exclusion of public services from certain provisions of the Act is due to the differing objectives of the public and private sectors; public sector wage adjustments involve nearly 850,000 employees and can have serious implications on the government budget; the existence of the five national joint councils (NJC's) for the public service testifies to the fact that a form of negotiation and consultation is afforded to these employees which led, in 1989 and 1991, to significant pay rises. The Government adds that it has started privatising certain public enterprises, such as the Department of Telecommunications and the Electricity Board, following which the employees concerned can bargain collectively. Moreover, the NJC's will undergo a major review to suit the New Remuneration System for the public sector, to be implemented as of 1 January 1992. The Committee points out that the consultations in the NJC's are not sufficient since any resulting recommendations must be submitted for final approval to the Cabinet Committee and thus are out of the hands of the bargaining parties. Since, in the Committee's opinion, this system does not fully afford employees who are not in the category of public servants covered by Article 6 of the Convention the right to bargain, it would ask the Government to ensure that the public servants not engaged in the administration of the State (such as those serving in public utilities) enjoy the right fully to negotiate their terms and conditions of employment - just as private sector employees do. It also recalls that any concerns as to the cost implications of such bargaining could be addressed through persuading the parties to have regard voluntarily to major economic and social policy considerations and the general interest, so that persuasion is used rather than constraint (General Survey, paragraph 313). In this connection the Committee asks the Government to supply information in its next report on the implementation of the New Remuneration System for the public sector.

The Committee draws the Government's attention to the fact that the Office is at its disposal for any technical assistance that it may wish to request in relation to these three long-standing matters.

#### Morocco (ratification: 1957)

The Committee notes with regret that the Government has not communicated its observations on the comments submitted by the Democratic Confederation of Labour (CDT) and the General Workers' Union of Morocco (UGTM) of 5 March 1991 concerning Articles 1 and 2 of the Convention, criticising the absence of any legislation guaranteeing adequate protection against acts of anti-union discrimination at work and the fact that workers' organisations do not enjoy, either in law or in practice, any protection against acts that impair their freedom to establish unions and their independence.



The Committee is bound to stress once again, in the same way as the Committee on Freedom of Association, the need to adopt specific provisions guaranteeing effective protection of workers against acts of anti-union discrimination and workers' organisations against acts of interference.

Article 4. The Committee notes with regret that, according to the observations of the CDT and the UGTM, the Government has paralysed most collective bargaining procedures. The above organisations refer to the Central Medical Advisory Council which is to be removed by section 364 of the draft Labour Code, the Central Prices and Wages Committee which has not met since 1961, the Central Collective Agreements Council which is no longer provided for in the draft Labour Code, the conciliation and arbitration committees responsible for the settlement of collective disputes, and the Central Council of the Public Service which has not met since 1961.

The Committee requests the Government to submit detailed comments on the observations of the CDT and the UGTM concerning the practical functioning of the various bodies mentioned above (number of collective agreements concluded, sectors covered) and any other procedure or body established to promote the full utilisation of machinery for voluntary negotiation, particularly in the national sugar enterprises.

#### Nicaragua (ratification: 1967)

The Committee takes note of the Government's report and observes that it contains information about compliance with the recommendations made by the Commission of Inquiry appointed in accordance with article 26 of the ILO Constitution to consider the complaint filed against Nicaragua concerning Conventions Nos. 87, 98 and 144.

The Committee takes due note that the Government indicates that, taking into account the observations of the Committee of Experts, the Commission of Inquiry and ILO advisers, it has prepared a draft Labour Code. In addition, with regard to tripartite consultations provided for in Convention No. 144, the Government states that extensive recourse to tripartism in different labour activities took place.

In this connection the Committee reminds the Government of its observations concerning the need to repeal Decree No. 530 of 24 September 1980, section 1 of which subjects collective agreements to the prior approval of the Ministry of Labour before they can come into force; concerning the need to promote collective bargaining; and to the effect that the authorities should refrain from any intervention or remove any obstacle that may restrict the free conclusion of collective agreements at different levels. In addition the Committee reminds the Government that, so far as successive interventions by the public authorities in wage negotiations are concerned, persuasion is preferable to dictation; it asks the Government to be good enough to indicate in its next report the measures that exist to establish the autonomy of the parties in procedures for bargaining on wage increases.

The Committee asks the Government to send it a copy of the draft Labour Code referred to. The Committee expresses the firm hope that at its next session it may be able to record tangible results in the

matter of bringing the law into conformity with the Convention, and that the future Labour Code will embody the recommendations made by the Commission of Inquiry in its report.

Pakistan (ratification: 1952)

The Committee notes the Government's report enclosing the Award of the Sixth Wage Commission for Banks and Financial Institutions dated September 1990.

The Committee's previous observations referred to inconsistencies between the national legislation and various Articles of the Convention:

- Article 4, limitations on free collective bargaining in the banking and financial sector (sections 38A to 38I of the Industrial Relations Ordinance, 1969); and
- denial of the rights guaranteed by Articles 1, 2 and 4 of the Convention for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance, 1980) and employees of Pakistan International Airlines Corporation (section 10 of the Pakistan International Airlines Corporation Act, 1956).

1. The Government argues that the Wage Commission set up in the bank and finance sector took into consideration all points brought to its notice by the bank employees in their written replies to the questionnaires distributed to them and in hearings; the views of management in respect of these matters also received due attention. According to the Government, since neither workers nor employers in this sector have complained against decisions of the Wage Commission, the system is working well. The Committee notes from the 1990 Award (at page 6) the Wage Commission's comment that:

Almost all the employees' unions demanded that their right of collective bargaining must be restored. The demand is based to a certain extent on misconception. Their right to collective bargaining has not been affected. The only change brought about is that, instead of talking to the employers (managements) they are now talking to the Commission in a calm and peaceful atmosphere for their terms and conditions (of work). The Commission feels that the very purpose of setting up a high-powered independent Wage Commission periodically is to settle the differences for a reasonable period so that the institutions may carry on their work in peace. It, therefore, seems incongruous to think that in spite of the labours of the Commission and the time and money spent on it a state of confrontation should still be allowed to prevail in the institutions.

The Committee would recall that employees of banks and financial institutions, not being engaged in the administration of the State according to Article 6 of the Convention - even if this is a nationalised sector - should be accorded the right to bargain their terms and conditions of service directly with their employer without interference from outside bodies. Where machinery or specialised institutions are established to help arrive at bargained outcomes, they must be designed to facilitate voluntary bargaining between the

two sides and leave them free to reach their own settlements (General Survey, 1983, paragraphs 301 and 304). As free and voluntary negotiation of conditions of employment is a fundamental aspect of freedom of association, the Committee requests the Government to re-examine the provisions of the Ordinance affecting the rights of employees in the banking and financial sector.

2. With regard to restrictions on the right to organise and to bargain collectively for workers in export processing zones and employees of Pakistan International Airlines Corporation, the Committee invites the Government to refer to its comments under Convention No. 87.

Panama (ratification: 1966)

The Committee takes note of the Government's reports and the information supplied during the discussions of the Conference Committee in 1991.

The Committee recalls that since 1967 it has been commenting on the need to grant the right to bargain collectively to public servants not engaged in the administration of the State.

The Committee also made comments on Act No. 13 of 11 October 1990 which restricts collective bargaining by extending for two years current collective agreements, and by providing that new enterprises or those which have not concluded collective agreements are not obliged to conclude collective agreements, during a period of three years.

The Committee observes that the Government repeats its previous comments on the right of workers in the private sector to organise and the right of certain public sector employees to bargain collectively. In this connection, the Committee reiterates that 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 for several years, the Committee again urges the Government to take the necessary measures in the near future to bring law and practice into full conformity with the Convention.

With regard to Act No. 13 of October 1990, the Government stresses the exceptional and temporary nature of this legislation which concerns "stabilisation policies" and indicates that the Act recognises agreed pay increases, calculated on the basis of their annual mean for each year of the extension and so guarantees protection of the workers, pointing out that such increases would be unlikely to be concluded through negotiation, because of the precarious state of the economy. This Act also recognises temporary accords within collective agreements and permits new agreements to be negotiated directly, so that it does not prohibit or limit the right to negotiate collective labour agreements if the parties agree. The Government also explains that the purpose of Act No. 13 is to improve national production, which dropped considerably as a result of the crisis that affected the country, by maintaining peaceful labour relations so as to attract new investment. However, the Government

indicates that under a consultation agreement in social and labour matters, concluded on 4 December 1990 between workers, employers and the Government, the currency of Act No. 13 of October 1990 is being discussed.

While taking note of the above-mentioned consultation agreement in social and labour matters, the Committee recalls that the measures contained in Act No. 13 do not encourage the full development and utilisation of voluntary negotiation as the most appropriate means of regulating conditions of employment by means of collective agreements, as provided for in Article 4 of the Convention. The Committee again asks the Government to take measures to repeal or amend the above-mentioned restrictions.

#### Papua New Guinea (ratification: 1976)

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

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 recalls that its previous comments referred to the need to adopt provisions to protect certain categories of workers excluded from the Labour Code (public officials not engaged in the administration of the State, 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 on the part of employers or their organisations (Articles 1 and 2 of the Convention), and to recognise the right of the organisations of these categories of workers to bargain collectively (Articles 4 and 6 of the Convention).

The Committee observes 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, 1446 and 1546 (251st, 259th, 277th and 278th Reports of the Committee approved by the Governing Body at its meetings of May 1987, November 1988, February and May 1991)].

The Committee notes the Government's statement in its report that the new Labour Code will provide for national legislation to be brought into line with international conventions and repeal all laws that restrict or suppress rights recognised at the international level in the labour, political and social fields.

The Committee notes the "Memoranda of agreement on labour relations and social security in the hydro power plant Yacyreta binational entity". It observes that according to sections 10 and 12 of these memoranda "the Itaipú, hydro power plant in view of its binational nature, will not include any employers' group which could be unionised" and that the "Yacyreta will not include any employers' union". In these circumstances, the Committee requests the Government to give details on the extent of these provisions; as regards the right of collective bargaining, it recalls that according to Article 4 of the Convention, measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

The Committee has been informed that the authorities have requested technical assistance from the International Labour Office in

preparing a Bill on trade unions, with a view to aligning the legislation with the Convention.

In view of the great importance of the questions raised and the fact that the Committee has been emphasising them for many years, the Committee expresses the firm hope that at its next meeting it will be able to ascertain that there have been concrete results in bringing the legislation into line with the Convention, particularly as regards the right to organise of public officials and employees.

[The Government is asked to supply full particulars at the 79th Session of the Conference.]

Peru (ratification: 1960)

The Committee notes the Government's report and the discussions that took place at the Conference Committee in 1991.

The Committee recalls that its previous comments addressed the following matters:

- repeated intervention by the Government in collective bargaining in various sectors of the economy, in accordance with section 211(20) of the Constitution, which empowers the President to adopt exceptional economic measures when required by the general interest;
- approval of collective agreements by under-directors of labour, under sections 2(b) and (c), and 5(2) of Presidential Decree No. 003-72/TR;
- recourse to compulsory arbitration in the event of the failure of bargaining during the period of direct bargaining (*trato directo*) or of conciliation, in accordance with section 13 of Presidential Decree No. 009-86/TR; refusal to bargain is regarded as a failure of bargaining (sections 18 and 26 of Presidential Decree No. 006-71/TR, as amended) and permits referral of the dispute to compulsory arbitration by one party, under section 13 of Presidential Decree No. 009-86/TR.

1. Intervention by the Government in collective bargaining under section 211(20) of the Constitution

The Committee notes the information supplied by the Government during the discussions at the Conference Committee in 1991, to the effect that Presidential Decree No. 017-82/TR (which allows government intervention in various sectors of the economy in the event of an economic emergency) was an exceptional and temporary measure aimed at containing the hyperinflation prevalent in the country and that it is no longer in force. The Committee points out that the measures to intervene in collective bargaining were taken under section 211(20) of the Constitution which empowers the President of the Republic to take exceptional economic measures when required by the general interest.

In this respect, the Committee reiterates the comment it made in its previous observation to the effect 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. Such restriction should not exceed a reasonable period and, more importantly, should be accompanied by adequate safeguards to protect workers' living standards. The Committee considers that it is always preferable, before such restrictions are adopted, to seek consensus rather than impose them by decree.

The Committee hopes that this principle will be taken into account in the future and asks the Government to report any new decree or provision restricting collective bargaining, issued under section 211(20) of the Constitution.

2. Approval of collective agreements  
by under-directors of labour

With regard to the directives or decisions that under-directors of labour may adopt when a collective agreement is submitted for their approval, the Committee notes the Government's statement that under-directors may only take decisions in accordance with the powers conferred on them by law. In addition, they can settle procedural problems that may arise, thereby speeding up the collective bargaining process.

In this connection, the Committee reiterates that a system of approval by the administrative authorities is only acceptable if it is limited to questions of form, or to observance of the minimum standards of legal protection provided for in the labour legislation.

The Committee asks the Government, in its next report, to provide information on the measures that it has taken in this respect.

3. Compulsory arbitration

With regard to recourse to compulsory arbitration at the request of only one party in the event of failure of collective bargaining (the refusal to negotiate, expiry of the conciliation period, etc.) (section 13 of Presidential Decree No. 009-86/TR), the Committee notes that the Government has not submitted any comments in this respect. The Committee wishes to stress that this is not conducive to the full development of voluntary bargaining procedures for collective agreements between employers and employers' organisations, on the one hand, and workers' organisations on the other, so that terms and conditions of employment can be settled in this manner, in accordance with Article 4 of the Convention.

Poland (ratification: 1957)

The Committee notes the Government's report, the coming into force of the Acts of 23 May 1991 concerning trade unions, employers' organisations and the settlement of collective labour disputes, as well as the comments of NSZZ "Solidarity" on the effect given in practice to the Convention.

1. In particular, the Committee notes with satisfaction that section 30(6) of the new Act concerning trade unions no longer empowers the employer, to make a unilateral decision concerning the conclusion or modification of a works collective agreement in the



event that the trade union organisations have not reached an agreed position.

2. Article 1 of the Convention. The Committee notes the comments of NSZZ "Solidarity" to the effect that the only sanction for acts of anti-union discrimination and interference in trade union activities set out in the Act of 23 May 1991, consisting of a fine of up to 50,000 zlotys (section 35), is not of a sufficiently effective and dissuasive nature to guarantee the adequate protection provided for in the Convention. It requests the Government to respond to these comments.

In view of the fact that the Government has not yet had the time to respond to the comments of the NSZZ "Solidarity", the Committee will deal with these specific questions at its next Session, when it has received the Government's comments.

3. The Committee is also making a direct request concerning the Acts of 23 May 1991 concerning trade unions and the settlement of collective labour disputes.

#### Romania (ratification: 1957)

The Committee takes note of the texts of the three basic Acts of 1991 respecting labour adopted by the Romanian Parliament: Act No. 54 respecting trade unions of 1 August, Act No. 13 on collective labour agreements of 8 February, and Act No. 15 on the settlement of collective labour disputes, and of the new Constitution of 8 December 1991.

The Committee observes with interest that the new Acts, in conjunction with the repeal of several legislative provisions on which it commented earlier, change the general orientation of the industrial relations system, establish trade union pluralism and the independence of the trade union movement, and recognise the principle of free negotiation of collective labour agreements.

The Committee is also addressing a direct request to the Government on certain points.

#### Singapore (ratification: 1965)

The Committee recalls that its previous observations on inconsistencies between the national legislation and Article 4 of the Convention concerned the following points:

- a quantum limit on the amount of annual wage supplements (AWS) in new enterprises (section 48(3) of the Employment Act as amended in 1988);
- limitations on the scope of matters open to collective bargaining (section 17 of the Industrial Relations Act); and
- discretion of the Labour Arbitration Court to refuse to register collective agreements concluded in newly established enterprises (section 25 of the Industrial Relations Act).

1. It notes the information supplied in the Government's report, in particular concerning the history behind the amendment, after tripartite consultations, of sections 48, 49 and 50 of the



Employment Act already noted with interest in last year's observation. According to the Government, the wage system in place after these amendments consists of a basic monthly wage, an annual increment, a variable bonus component linked to company performance which can all be the subject of negotiation, and the AWS which, again by negotiation, can be retained, dropped or converted into other benefits. The quantum limit of one month's wages or less in newly created companies was decided on so as to encourage such companies, with the support of the unions, to pay more in the form of a variable bonus linked to company performance; the Government thus considers that the limits established in section 48 should not be regarded as a restriction on collective bargaining. The Committee takes due note of the Government's insistence that the AWS limit was the outcome of full tripartite consensus; nevertheless, it must recall the terms of Article 4 regarding the autonomy of the two parties involved in bargaining and the principles that where, for general economic reasons, the public authorities lay down standards or adopt measures to influence wage determination, these may at times assume the nature of veritable wage controls (General Survey, 1983, paragraph 309). The Committee has already drawn the Government's attention to the fact that, rather than imposing restrictions on collective bargaining - even if just on one element of the wage packet and only in newly created companies - it could take steps to persuade the bargaining parties to have regard voluntarily in their negotiations to economic and social policy considerations so that persuasion is used rather than constraint.

2. The Committee also notes the Government's contention that those areas listed in section 17 of the Industrial Relations Act are commonly regarded as management functions outside the scope of collective bargaining; as in past reports, it stresses that employers are nevertheless expected to, and do in practice, consult with the concerned unions if a decision taken in one of those areas would affect their employees. The Government adds that since the introduction of this provision in 1968 it has not hindered the conduct of industrial relations or the promotion of labour-management cooperation and points to the rapid economic growth for the benefit of workers, companies and the economy in Singapore over the years. The Committee has consistently stated that the legislative exclusion from bargaining of certain matters relating to conditions of employment (such as here: promotion, transfer, appointment, dismissal and assignment of duties) is not compatible with Article 4 (General Survey, paragraphs 307 and 311). It accordingly again asks the Government to take steps to bring section 17 into line with its obligations arising under the Convention.

3. The Government states that it reviews the Industrial Relations Act periodically and that it has taken note of the Committee's comments on section 25. The Committee trusts that, in its next report, the Government will indicate the measures taken or contemplated to promote, in newly established enterprises, the development and utilisation of voluntary collective bargaining free of the risk of concluded agreements remaining ineffective by reason of their non-registration by the Labour Arbitration Court using its powers under section 25 (General Survey, paragraphs 308 and 311). The

Committee also asks the Government to indicate in its next report whether any agreement has been refused in the period covered by the report.

The Committee draws the Government's attention to the fact that the ILO is at its disposal for any technical assistance that it may wish to request in relation to these three long-standing matters.

Syrian Arab Republic (ratification: 1957)

The Committee takes note of the Government's report.

For several years, the Committee has invited the Government to amend article 98 of the Labour Code, which enables the Minister to refuse to approve a collective agreement and to annul any clause likely to harm the economic interests of the country. The Government refers to its previous replies and states that there is no opposition between article 98 and the Convention.

As the Committee pointed out in its General Survey of 1983 on freedom of association and collective bargaining, only questions of form or of non-conformity with the minimum standards of labour law could justify such a system of prior approval. The Committee therefore asks the Government to take suitable measures to amend article 98 of the Labour Code and instead to persuade the parties to collective bargaining to have regard in their negotiations to major economic and social policy considerations and the general interest invoked by the Government.

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.

The Committee had observed 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 had indicated 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, Freedom of Association and Collective Bargaining, 1983, paragraphs 309-315).

In its report, the Government states that it has taken into consideration the comments made by the Committee and has requested the ILO expert who is currently assisting the Government in the drafting

of the new Labour Code, to advise the Government on amendments to be made, where appropriate, to this end.

The Committee requests the Government to provide in its next report information on the measures that have been taken to give full effect to the Convention.

Trinidad and Tobago (ratification: 1964)

The Committee notes the Government's communication of April 1991, whereby it indicates that, within the context of the current revision of the Central Bank Act, 1964, consideration will be given to the establishment of an appropriate mechanism to deal with the grievances of the Central Bank's employees, in the light of the representations made by the Staff Association of the Central Bank of Trinidad and Tobago. The Committee takes note with interest of this information and requests the Government to keep it informed of the developments in this respect.

The Committee also refers 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. In its previous observation, the Committee noted that the Government proposed to solicit the views of the social partners on this matter and would keep the ILO informed. The Committee, once again, takes note of this commitment and requests the Government to provide in its next report information on the result of said consultations and on any development in that respect, including measures taken by the Government to bring its legislation into conformity with the Convention.

Turkey (ratification: 1952)

The Committee notes the information supplied by the Government to the Conference Committee in 1991 and the extensive discussion which followed, as well as the communications of the Turkish Railways Workers Trade Union (Demiryol-Is) and of Public Services International (PSI) of May and June 1991. It further notes in particular the conclusions of the Committee on Freedom of Association in Cases Nos. 997, 999 and 1029 (282nd Report) and Nos. 1582 and 1583 (281st Report) concerning Turkey, approved by the Governing Body at its February-March 1992 Session.

The Committee has expressed for many years its concern regarding two problems arising from the Turkish legislation on collective bargaining: numerical requirements for trade unions to be allowed to negotiate a collective agreement and compulsory arbitration in certain cases. In its last observation, the Committee also recalled its principles concerning the rights of public servants.

The Committee notes with interest that, following the recent general election, the new Government announced its intention further

to liberalise and democratise the current legislation in general and the labour legislation in particular. The Committee notes in particular that, according to the Government Programme presented in November 1991 before the Grand National Assembly: the new Constitution will institutionalise trade union rights in conformity with ILO standards; trade union rights and freedoms will be guaranteed to civil servants and other workers in the private sector, including those in the banking industry.

The Committee takes note of the firm commitment given by the Government which, if implemented, would bring the legislation into closer conformity with the requirements of the Convention. Noting that the advisory services of the ILO have been offered to the Government, the Committee strongly hopes that these stated intentions will rapidly be followed by legislative measures, 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.

#### United Kingdom (ratification: 1950)

The Committee notes the communications received from the Government dated 5 July 1991 and 10 February 1992, the National Union of Teachers (NUT) dated 19 and 25 April 1991, the World Confederation of the Teaching Profession (WCOTP) dated 24 April 1991, the Trade Union Congress (TUC) dated 23 October 1991 and 10 January 1992, and the Career Teachers' Organisation (NASUWT) dated 17 December 1991. The trade unions' communications concerned mainly the determination of teachers' pay and work conditions in England and Wales, in the light of the School Teachers' Pay and Conditions Act, 1991, which came into force on 22 August 1991.

The Committee will take these issues into account, in the light of the observations transmitted by the Government and the various trade union organisations concerned, at its next examination of the Convention. The Committee would appreciate being provided with information on the functioning and application in practice of the pay review machinery for school teachers.

#### 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 the Convention, and in particular:

- the refusal of the Yugoslavian authorities to give effect to the Union's application for registration and to recognise it as an interested party in the collective bargaining process; and
- acts of anti-trade union discrimination and interference, and in particular the dismissal of many workers and trade union officers by reason of their membership of the Union of Independent Trade Unions of Kosovo and their refusal to be members of the Serbian Trade Union.

The Committee notes that the Government confines itself to indicating that a union of trade unions of Kosovo already exists, that the Union of Independent Trade Unions of Kosovo has no legal personality and that it is in effect a political organisation.

The Committee refers to its comments on Convention No. 87 as regards the rights of workers to establish trade union organisations.

It also points out that, in accordance with Article 1 of the Convention, workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

The Committee invites the Government to provide in its next report a detailed reply to the comments made by the Union of Independent Trade Unions of Kosovo.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Antigua and Barbuda, Austria, Benin, Central African Republic, Ecuador, Guinea, Guinea-Bissau, Ireland, Lebanon, Malawi, Mongolia, Panama, Poland, Romania, Saint Lucia, Sierra Leone.

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

### **Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951**

Morocco (ratification: 1960)

The Committee notes that 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 the comments made by the Democratic Confederation of Labour and the General Union of Moroccan Workers which the Committee noted in its 1991 general observation, regarding in particular the following points:

Article 2 of the Convention. The above organisations consider that because of the weakness of inspection as regards payment of wages, the authorisation of partial payment of wages is resulting in the non-observance of the minimum wages. Please indicate measures taken to ensure that allowances in kind are appropriate for the personal use and benefit of the worker and his family and that the value attributed to them is fair and reasonable in accordance with Article 2, paragraph 2, of the Convention.

Article 3, paragraph 3. The said organisations state in their comments that there is no consultation with organisations of agricultural workers as regards the minimum wage fixing. Please indicate the manner in which employers and workers are associated with

the working of the minimum wage fixing machinery in accordance with this provision of the Convention.

\* \* \*

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

### **Convention No. 100: Equal Remuneration, 1951**

#### General observation

In its comments on the application of this Convention, the Committee has had occasion to recall the provisions of Article 2.1 of the Convention, which provides for the application of the principle of equal remuneration for men and women workers for work of equal value to "all workers". The Committee requests governments, in their next reports on this Convention to indicate whether, in law and in practice, all categories of workers are covered by the provisions of the Convention. In particular, the Committee requests governments to provide full information concerning the implementation of the equal pay principle in "export processing zones", where questions on the application of Conventions have arisen.

#### Barbados (ratification: 1974)

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

1. Wage differentials in the sugar industry. In its previous observation, the Committee noted that Appendix C to the 1984-85 collective agreement covering this industry provided in clause 1 that in 1984 and 1985 minimum rates of wages were to be 12.5 per cent higher than the rates of wages paid during the year 1983. It recalled that the Sugar Workers (Minimum Wage) Order, 1982, had established in clause 5 for 1983, minimum hourly wages of \$3.23 for general workers, male, and \$2.68 for general workers, female, in factories. It observed the corresponding differential rates, increased by 12.5 per cent, were maintained in clause 5 of Appendix C to the 1984-85 collective agreement which established minimum hourly wages of \$3.63 for general workers designated "A" class and \$3.02 for general workers designated "C" class in factories, without any description of their jobs. The Committee also noted that in 1983 hourly minimum wage rates in plantations and estates distinguished between four categories: men, A class, men, B class, women, A class and women, B class. These differences were faithfully reflected for 1984 and 1985 in increased rates which distinguished four categories of sugar workers over 18 years of age by reference not to the work actually performed when employed on time work, but,

in the case of the three higher paid categories, by reference to tasks they are required to perform when employed at piece rates. The Committee requested the Government to provide full information on the numbers of men and women in the various wage categories, and on any job descriptions, adopted for those wage categories which do not indicate the jobs actually performed.

Attached to the Government's latest report are the texts of the collective agreements in the sugar industry for the years 1984-85, 1986, 1987 and 1988, as well as the wage rates payable to sugar workers for the years 1989, 1990 and 1991. The Committee notes that, for all those years, the wage rates still distinguish between general workers "A" class, general workers "C" class, artisans "A" class, and artisans "B" class. The agreements still contain four categories of sugar workers over 18 years old, but they do not contain any descriptions of the corresponding jobs (with the sole exception of clause 4 of Appendix D to the collective agreements, "conditions of employment", which provides that a general worker employed on painting buildings shall be paid the rate applicable to a grade B artisan). The Committee notes from the Government's report that information is not available on the numbers of men and women in the various wage categories in the sugar industry.

The Committee is obliged to conclude that the discriminatory wage rates established in the Sugar Workers (Minimum Wage) Order, 1982, continue in the collective agreements in the sugar industry. It requests the Government to supply in its next report full and detailed information on the measures it has taken, either alone or in co-operation with the social partners, to ensure the application of the principle of equal remuneration for work of equal value to men and women workers in the sugar industry, including information on any job descriptions adopted for those wage categories which presently do not indicate the jobs actually performed, and on the methods used in job evaluation or classification in the sugar industry.

2. The Committee notes that the Government's report does not contain replies to points 3 and 4 of the observation made in 1989. It hopes that the Government's next report will contain detailed information on those points which read as follows:

3. General adoption of the principle of the Convention. In earlier comments the Committee noted that there had been no further progress on the Employment and Related Provisions Bill, which was to embody the principle of equal remuneration in terms similar to those in the Convention, and that it was unlikely that the Bill would be promulgated in the form of the draft in question. It also noted that neither the text of the Bill nor the comments of the occupational organisations could be supplied to the ILO, and expressed the hope that the Government would indicate the means by which the principle of the Convention was to be applied to all workers.

The Government in its reply indicates that overall, it is satisfied that there are no forms of discrimination in remuneration in the country of which it is aware.



The Government adds that it subscribes to and applies in the public service, the principle of equal remuneration for men and women for work of equal value, and that this principle is fully endorsed by employers' and workers' organisations in collective bargaining. In those areas where workers are not organised, the Minister of Labour has the power under the Wages Councils Act to establish by order wages councils to determine wages and conditions for such workers if he considers the circumstances so demand. According to the Government's report, the principle of equal pay for equal work would naturally be applied in these circumstances as well.

The Committee takes due note of these indications. Referring to point 1 of the present observation, it recalls that openly discriminatory wage rates were adopted by order as recently as 1982 and that the same wage differentials, albeit under a different name, appear to continue in existence by collective agreement; this, combined with the absence of data on jobholders and job evaluation, repeatedly requested from the Government, tends to show that the need for government action to promote and, in so far as possible, ensure the application to all workers of the principle of the Convention, still exists. Moreover, referring again to the explanations provided in paragraphs 44 to 70 of its 1986 General Survey on Equal Remuneration, the Committee must point out that a principle under which men and women doing equal work shall be paid at the same rate, such as proclaimed in the 1984 collective agreement for the Barbados Sugar Industry Ltd., merely covers equal remuneration for persons performing the same work, but falls short of the principle of the Convention, under which men and women shall be paid equal remuneration for work of equal value, implying a comparative evaluation of work of a different nature. The Committee again expresses the hope that standard-setting action to apply the principle of the Convention to all workers, as had been contemplated before, will soon be taken through one or several of the means listed in Article 2, paragraph 2, of the Convention, and that the Government will indicate the measures adopted to this end.

4. Application in practice. Referring to its general observation of 1984 on the Convention, the Committee once more expresses the hope that the Government will provide detailed information on the application in practice of the principle of equal remuneration for work of equal value, in particular by furnishing information on the measures taken to monitor its implementation.

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

#### Cyprus (ratification: 1987)

The Committee has noted with interest that, in response to a request of the Government for assistance in implementing the provisions of the Convention, a mission was undertaken in December



1991 by officials of the International Labour Office who subsequently prepared a report concerning the measures which might be taken by the Government and the social partners to give effect to the principle of equal pay for work of equal value. The Committee has noted that this report is being examined by the relevant governmental authorities and by the workers' and employers' organisations and that the Office will be kept informed as to the outcome of this examination.

The Committee hopes that the Government will provide full information in its next report concerning the measures being taken or contemplated in the light of the assistance provided.

#### Dominican Republic (ratification: 1953)

The Committee notes the Government's indication in its last report that it would request technical and financial assistance from the Inter-American Centre for Labour Administration (CIAT) with the object of bringing up to date the National Dictionary of Occupations which, according to the previous report, had fallen into disuse because it had not been adapted to the major changes which have occurred over recent years in the structure of the economy, the workforce and the system of technical and vocational training. The Government confirms its desire to receive the necessary technical cooperation in order to determine and apply methods for the evaluation of jobs and occupations with a view to furthering the implementation of the Convention.

The Committee hopes that the ILO will be able to assist the Government to give better effect to the Convention, not only as regards the evaluation of jobs, but also in bringing the national legislation fully into accordance with the Convention, in view of the fact that section 186 of the Labour Code provides that equal remuneration shall be paid for equal work performed under identical conditions as regards skills and seniority, and that by virtue of section 265 of the Labour Code, this provision does not apply to farms employing fewer than ten workers. The Committee hopes that the Government will indicate in its next report the measures that have been taken or are envisaged, possibly with the assistance of the ILO, to amend the above provisions of the Labour Code by requiring that equal remuneration be paid for work of equal value and to give better effect to the Convention in practice.

#### Finland (ratification: 1963)

The Committee has noted the information supplied by the Government in response to the Committee's previous comments.

1. The Committee recalls that, over the last several years, various workers' organisations have expressed concern over the lack of significant progress in reducing the wage differential between female and male workers. According to the Government's report, the Central Organisation of Finnish Trade Unions and the Confederation of Salaried Employees have stated that pay differences between women and men have still not been reduced. The Committee notes from the statistics

available from the Office of the Council of State, provided by the Government, that there has been a continuous, though not dramatic diminution of the pay differential for all but one group of wage earners, over the last ten years. The Government has also indicated that in the public sector, where the total average earnings of women are some 77 per cent of those of men, the difference is mainly due to the fact that men and women hold different posts.

2. The Committee takes note of the information contained in the Government's report on a number of measures being taken to reduce wage differentials between the sexes:

- (i) The labour market parties have been undertaking an investigation of the effect of the equality allowance, which was introduced in 1988 specifically to reduce pay imbalances between women and men. The Committee recalls that the size of the allowance is determined on the basis of the predominance of female employees in each sector. The Committee would be grateful if the Government would provide in its next report, information on the outcome of this study.
- (ii) Following the decision of the comprehensive economic and incomes policy settlement to develop a job evaluation system, a working group was established to examine evaluation systems, taking into account, in particular, female-dominated sectors, and to develop recommendations which consider the possibility of comparing difficulty ratings between sectors. The Committee notes this initiative with interest and requests the Government to provide information on the findings of the working group and to indicate any measures taken to implement its recommendations.
- (iii) Apart from responding to requests for advice on alleged pay discrimination, the Equality Ombudsman has also carried out on-site inspections of workplaces (under section 18 of the Equality Act) which involve interviews with employees and employers and the investigation of working conditions and the requirements of jobs. The Committee requests the Government to continue to furnish information on the activities of the Ombudsman in its future reports.

3. The Committee notes the information provided by the Government regarding the re-evaluation of state pay systems, which is being undertaken with a view to developing systems which provide for incentives to encourage productive, economical and profitable operations. The Committee requests the Government to provide information on any methods eventually put into place, which are relevant to the application of the Convention.

#### Iceland (ratification: 1958)

The Committee notes with interest the detailed information contained in the reports and documentation submitted by the Government under Conventions Nos. 100 and 111.

1. In its previous direct request, the Committee had requested the Government to provide information on any action taken pursuant to

an investigation made by the National Economic Institute (NEI) in 1989, which examined the earnings differential between men and women. (The study had found that in 1986, though 38 per cent of all full-time workers were women, their share of earned income was only 28 per cent of the income of all full-time workers. Moreover, the gap between male and female earnings had decreased only slightly in recent years. The average nominal earnings of women were roughly 60 per cent of men's average nominal earnings. This difference was most dramatic when income peaked for both sexes between the ages of 35 and 50; the average income of female workers was then as low as 45 per cent of the average male income.)

In its report, the Government points out that there is no consensus among experts as to how to explain these disparities; some have pointed to the greater education, job training or longer working experience of men. However, states the Government, the education argument does not pertain to unskilled labour, neither is greater work experience a relevant explanation for income differences in younger age groups as there are no longer huge outflows from the labour market of women of child-bearing age. The Government expresses its grave concern about the situation; and outlines the various measures it has adopted to give effect to the legislative prescription that "women and men shall receive equal wages and shall enjoy equal employment benefits for equally valuable and comparable work." (This provision has been included, with slight modification, in the equality laws adopted since 1976; and is restated in the Act on the Equal Status and Equal Rights of Women and Men No. 28 of 1991, Article 4.)

2. The Committee has noted with interest the measures taken by the Government in this regard which include:

- (i) the adoption of the above-mentioned Act No. 28 of 1991, the provisions of which are described in the Committee's observation under Convention No. 111;
- (ii) the adoption of the Government's second Four-Year Plan of Action on Measures to Achieve Equality between the Sexes (1991-94) which places emphasis, inter alia, on measures to promote the equal status of the sexes in the school system, wage equality between women and men, the improvement of the status of women in the labour market and in rural areas. The Committee notes with interest that among the particular projects enumerated to give effect to the Plan of Action, a study is to be made on the wages and fringe benefits of women and men in five large governmental institutions, e.g. in the field of public health or education;
- (iii) the participation of the Government in various programmes adopted by the Nordic Council of Ministers, including the Bryt project (1985-89), which aims at developing and testing methods to break down gender segregation of the labour market. As part of the Council's Action Plan for Nordic Cooperation on Equality between Women and Men (1989-93), a five-year Equal Pay Project is being undertaken to correlate the available data on inequality in pay for women and men, to determine its causes and to propose measures to remove the barriers to equal pay;

- (iv) the establishment of an Equal Rights Programme in about 50 government institutions setting specific aims to increase the number of women in positions of responsibility and to improve their wages.

3. The Committee notes with interest that pursuant to the Wages and Terms Agreement concluded between the Icelandic Federation of Labour and the Confederation of Icelandic Employers and the City of Reykjavik in 1989, the social partners have appointed a discussion group to examine the changes and reasons for the wage differential and to investigate how it might be reduced. The Committee has also noted that a provision concerning the revision of the appraisal of jobs was included in a collective agreement between local authorities and the Federations of State and Municipal Employees, and that this has led to a revision of job appraisal in more than half of the contracting local authorities. While this measure was motivated by the apparent income gap between private and official sector employees, the Government states that women employees have hopefully benefited from the revision.

4. The Committee would be grateful if the Government would continue to provide information in its future reports concerning the results of the above-mentioned initiatives and any other measures to reduce the wage differential between women and men.

#### India (ratification: 1959)

For a number of years, the Committee has drawn attention to the need to better enforce the provisions of the Equal Remuneration Act, 1976, as there would appear to exist numerous cases in which women receive lower wages than men for equal work or for work of equal value. It has also observed that the scope of the principle of equality of remuneration under the above Act is more limited than the principle of the Convention, as it covers only men and women performing the same work or work of a similar nature for the same employer.

In its observation of 1991, the Committee noted with interest that the Equal Remuneration Act had been amended to widen the scope of the protection against discrimination, to provide for substantially increased penalties for offences under the Act, and to empower the courts to try such offences 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. It also noted a substantial increase in the number of prosecutions launched under the Act in the central sphere, measures to strengthen the activities of the labour inspectorate, and information and comments concerning the situation in various sectors of employment and in various States. It also noted the Government's statement to the effect that it may not be possible to introduce the concept of equal pay for work of equal value at the present stage of development, as this is an advanced concept, and that priority should be given to the full implementation of the Equal Remuneration Act.

The Committee notes the information supplied by the Government and the discussions which took place at the Conference Committee in 1991. It also notes the comments made by the Centre of Indian Trade

Unions (CITU) in a communication of May 1991, which was transmitted to the Government for its observations.

The Committee notes that the Government did not supply a report; neither did it send observations in reply to the communication of the CITU.

In its communication, the CITU states that despite the passing of the Equal Remuneration Act in 1976, there remain many shortcomings and loopholes. It reiterates its previous comments concerning the lack of serious efforts on the part of the Government and the enforcement authorities to implement the Act; states that in certain industries, employers use a piece-rate system to avoid equal wages for women workers or that they claim that the work performed by women is of a different nature to the work performed by men, while in fact the nature of work for men and women is the same or is similar, which explains why women workers in beedi, construction, garment, agriculture and other industries continue to get lower wages than male workers; points out that the powers under the Equal Remuneration Act to grant exemptions are grossly misused and that air hostesses in certain airlines and professional workers are excluded from the clause relating to equal remuneration; and refers to efforts made by the trade unions to raise consciousness among working women and men, and to similar efforts made by the central Government which, in its view, need to be followed up for more effective results to be achieved.

The Committee hopes that the Government will supply a full report for examination at its next session and that this report will provide information in relation to the points raised in the communication of the CITU and in reply to the Committee's following comments:

1. Recalling the statement made in the Government's last report to the effect that priority should be given to the full implementation of the Equal Remuneration Act, as amended, the Committee wishes to point to the importance of correcting as soon as possible the most serious cases of non-compliance with the principle of equal pay embodied in the above-mentioned Act.

The Committee has noted the information supplied at the Conference Committee concerning the application of the Act in various industries in a number of States. It has also noted the concern expressed by the CITU that in order to avoid paying women equal rates to those of men, employers use a piece-rate system or claim that women are undertaking different, less arduous work, and that in a number of industries women receive lower wages than men, in violation of the Act.

In this connection, the Committee has had the opportunity to refer to a series of studies undertaken by the Labour Bureau (Ministry of Labour, Government of India) on the socio-economic conditions of women workers in various industries. The study concerning the building and construction industry (released April 1989) revealed that the "daily wages of most of the unskilled female construction workers in Bombay, Madras and Calcutta cities were much less than those fixed under the Minimum Wages Act ... In some cases, women workers' daily wages were even less than the half or 60 per cent of the minimum wages ... Employers of as many as nine of the 14 construction projects studied in Bombay and nine of the 13 projects studied in Madras were violating the provisions of the Equal Remuneration Act, as in these cases the daily wages of unskilled women were much less than those of



their male counterparts ... Employers were circumventing the Act by saying that the jobs performed by men were tougher than those done by the corresponding women workers, whereas the study revealed that in most cases there was no difference between the jobs performed by unskilled men and women workers" (paragraphs 15 and 16).

The study of women workers in handloom units in Panipat (Haryana) (released in 1989) stated that women workers were not only regarded as secondary to male workers but they were also not considered even as "employees" by some employers. Another difficulty in the implementation of the Minimum Wages Act was that while almost all the handloom workers were employed on piece rates, the wages under the Act had been fixed on time. It was concluded that in view of the large number of handloom workers employed in the State and their peculiar working conditions, there was a need to have the industry as a separate scheduled employment under the Minimum Wages Act and for the minimum wages to be fixed on a piece-work basis.

Similar situations were found in the 1988 study covering the "raw leaf tobacco, zarda and cigarettes, brick kilns, tiles, stone dressing and crushing, electric and miniature lamps, radio and television sets and fountain and ball pens industries", which revealed that, in stone factories, women workers engaged as mazdoor, stone carriers and coolies were invariably receiving wages that were 6 per cent to 60 per cent less than their male counterparts, and that although "the work performed by women seemed to be harder than that of men, yet the employers were paying lesser wages to women workers" (paragraph 3.2.2); and in the 1988 study covering the "tea-processing, coffee-curing, paper and paper board, match splints and veneers and bobbins, rubber and plastic products, chinaware and porcelainware, electrical machinery, apparatus and appliances, electronic goods and components", where it was found in particular that in some tea factories located in Assam and northwest Bengal, the daily-rated women workers were receiving lower wages than the corresponding male workers, and women engaged in stalk picking were not found to have been shown in the factory's records and were thus debarred from benefits like bonus, provident fund, etc.

The Committee notes that according to the written information supplied by the state governments at the Conference Committee, in practically all the States the same rates of wages were fixed for men and women workers, and women did receive the minimum wages prescribed and/or the same wages as men and if they did not, it was due to the fact that they perform different, less arduous or less difficult work than men, and there were no or very few complaints in this regard. In her oral statement, the representative of the Government made reference to some cases in which differential wage rates had been detected in tea gardens in Assam.

The Committee draws attention to the apparent discrepancy between the information supplied at the Conference Committee and the findings of the above-mentioned studies, which appear to be consistent with the comments received over the years from workers' organisations and those made over the years by the Committee. While the Committee is aware of the efforts made by the Government to improve the implementation of the equal pay legislation, it hopes that the Government will indicate the measures taken or envisaged to draw the attention of the competent

state authorities to situations such as those revealed in these studies, in order to correct them in accordance with the requirements of the national legislation and of the Convention.

2. As concerns measures to better publicise the provisions of the Equal Remuneration Act, 1976, as amended in 1987, the Committee has noted with interest the information supplied at the Conference Committee on the various training programmes conducted in 1990 by the tripartite Central Board for Workers' Education in order to increase women's awareness of their rights and responsibilities; the financial assistance accorded by the Women's Unit of the Ministry of Labour to non-governmental organisations for programmes designed to stimulate awareness about women's rights and to organise women in the informal sector; the Government's intention to conduct a regular training programme for labour inspectors and the four social welfare organisations recognised for the purpose of filing complaints under the equal pay legislation; and the consideration given to the establishment of a national commission for women, whose role would include examining the application of constitutional and legal provisions, proposing amendments to those texts and examining complaints regarding their non-implementation.

The Committee hopes that the Government will continue and expand these various promotional and training programmes and that it will encourage state governments to develop similar programmes. It requests the Government to provide full information concerning this important aspect in its next report.

3. The Committee has also noted with interest that the centrally sponsored scheme to create the post of Labour Inspector with supporting staff to enforce exclusively legislation relating to women and children is fully functional on a pilot basis in Madhya Pradesh; and that it was proposed to continue the scheme and extend it to other States in the next five-year plan. It requests the Government to provide details on the extension of the pilot scheme and on the activities under these schemes in its next report. Noting the comment made by the CITU in this respect, the Committee also requests the Government to consider how it might involve the trade unions in this and in other projects to implement equal pay.

4. The Committee also notes the statistics provided by the Government concerning the number of inspections carried out at the state level under the minimum wage and equal pay legislation, the irregularities noted and the action taken to bring about compliance. The Committee hopes that the Government will continue its efforts, in collaboration with the state governments, to reinforce the activities of the labour inspectorate in the field of the Convention and that it will supply full information in this regard, including details of the sanctions imposed on the basis of the amended Act.

5. The Committee also requests the Government to provide information on the cases in which, pursuant to section 12 of the Equal Remuneration Act, as amended in 1987, courts have tried offences punishable under the Act under their own authority or upon a complaint made by any welfare institution or organisation recognised by the central or the state governments. Noting from the information supplied by the Government at the Conference Committee that only four welfare organisations have been recognised for the purpose of filing

complaints under the Act, the Committee hopes that the central and state governments will be able to extend recognition to a greater number of organisations, in view of the very important role that they can play in promoting better observance of the relevant legislation.

6. The Committee is raising other points in a direct request.

Jamaica (ratification: 1975)

Further to its previous comments, the Committee notes the Government's report and the discussion in the Conference Committee in June 1991.

1. In its 1991 observation, the Committee had noted that the Minimum Wage (Printing Trade) Order, 1973, which had provided for sex-differentiated job categories and pay scales had been revoked by the Minimum Wage (Printing Trade) Order, 1989, which had set a single rate of pay for an unskilled worker. However, in other respects the Order had simply removed explicit reference to the sex of the worker from various other categories, while at the same time maintaining both the former definitions of those categories and differentials in the respective increased minimum rates which appeared to correspond to those laid down in the 1973 Order. 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 were open to both sexes, the Committee had been forced to conclude that the wage distinctions based on sex in the 1973 Order had been maintained in the 1989 Order, despite the introduction of neutral language. The Committee had requested the Government to supply detailed information on the measures taken, either alone or in cooperation with the social partners, to ensure the application of the principle of the Convention in the printing trade as well as in other industries, such as the garment-making trade, where the Committee had previously noted that distinctions based on sex had apparently played a role in establishing differential minimum wage rates.

At the Conference Committee in 1991, the representative of the Government stated that the tripartite Minimum Wage Advisory Commission would review the Minimum Wage Orders for the printing and garment industries before the end of 1991 and, in doing so, would take account of the Committee's comments regarding the application of the Convention. He assured the Committee that a comprehensive report, as well as copies of the new Orders, would be furnished as soon as this work had been completed.

The Committee notes that no further reference is made in the report of the Government to the review of the above-mentioned Orders. The Committee trusts that the Government will indicate, in the near future, that it has taken the necessary action to ensure conformity with the provisions of the Convention.

2. In its previous direct request, the Committee had pointed out that section 2 of the Employment (Equal Pay for Men and Women) Act, 1975, only refers to "similar" or "substantially similar" job requirements, whereas the Convention provides for equal remuneration for work of "equal value", even of a different nature. The Committee



notes that the Government has provided no information on the measures taken or envisaged to re-examine national legislation in the light of the requirements of the Convention. The Committee trusts that full information will be provided in this regard in the next report.

3. In its previous comments, the Committee had noted that minimum wage orders generally exclude any ancillary benefits from their scope, while the Convention, as well as the above-mentioned Act include in their scope any additional emoluments whatsoever payable in cash or in kind to the worker in respect of work or services performed. The Committee had therefore requested the Government to indicate how, in practice, equal remuneration is implemented with respect to benefits such as housing, marriage or family allowances, in both the private and public sectors. The Committee notes the statement of the Government in its report that there is equal remuneration in both the private and public sectors with respect to the benefits paid or granted in addition to salary.

The Committee, however, notes from the Government's report that while the payment of marriage allowances was discontinued during the 1970s, teachers who were receiving the allowance prior to its discontinuation have continued to receive it. Male teachers who fall into this category receive an allowance of \$2,400 per annum.

The Committee points out that the continuing payment of marriage allowances to, it would appear, only male teachers who had entitlement to them prior to their discontinuation is contrary to the provisions of the Convention. It therefore requests the Government to ensure that those female teachers who were also employed prior to the date of discontinuance of the allowance but who were denied it on account of their sex are also granted a marriage allowance.

More generally, the Committee requests the Government to take the necessary steps to ensure that minimum wage orders and any regulations fixing wages for the public sector cover not only cash minimum wages but also any additional emoluments payable in cash or in kind.

The Committee requests the Government to provide full information in this respect in its next report.

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

#### Japan (ratification: 1967)

1. In comments made over the course of a number of years, the Committee has sought information which would enable it to ascertain the extent to which the application of the Convention has resulted in a narrowing of the wage differential between women and men. On the basis of the most recent information provided by the Government, the Committee notes that the starting salary of women upper-secondary school graduates has narrowed to 94.7 per cent of that of men in the same position in 1990. A comparison made between male and female "standard" workers (i.e. a worker who has remained employed by the same enterprise since graduation) of the same age and length of service who were graduates from upper secondary schools, revealed that the wages of women represented nearly 90 per cent of those of men in the 20's age group and 70 per cent in the 50's age group. The "Basic

Survey on Wage Structure", Ministry of Labour, June 1988 (which appears to be the source of the latter-mentioned data) reveals that wage differences, at least in the starting salaries, are levelling off among junior high school and high-school graduates, and narrowing among university graduates. This same survey indicated, however, that women's average monthly cash earnings are about 60.5 per cent of those of men.

2. From the information supplied in the reports of the Government, the Committee observes that two primary reasons appear to account for the persistence of an important wage differential in average earnings and for the widening of the wage differential in relation to the age of women workers; the first being the seniority wage system, under which the employee's pay rises with the length of service in the same enterprise; and secondly, the fact that women are concentrated in lower paid jobs and are not accorded equal employment opportunities.

3. As concerns the seniority wage system, the Government had earlier stated that a change to a wage system based on job content would promote the principle of equal remuneration for men and women by reducing the difference in earnings due to the shorter average length of women's service. It had pointed out, however, that both employers and workers recognised the merits of the seniority-based system and that it would have to be reformed gradually to avoid jeopardising these merits. The Committee requests the Government to indicate whether there has been any progress towards a wage system based on job content. In order to ensure that the trend towards a narrowing of the wage differential at the entry level is maintained as those workers age, the Committee also requests the Government to indicate whether consideration has, or might be given, to introducing a system whereby seniority credits are awarded to women who break their careers for child-bearing or rearing or in order to meet other family responsibilities.

4. In relation to overcoming pay inequalities through measures to promote equal opportunities for women workers, the Committee has noted the information provided in the Government's report concerning measures to implement the Equal Employment Opportunity Law, 1985. The Committee recalls that while this Law prohibits discrimination on the ground of sex in relation to vocational guidance, the payment of fringe benefits, the mandatory retirement age and retirement and dismissal on the ground of marriage, pregnancy and childbirth, it provides that employers "should endeavour" to give equal opportunities to women and men in recruiting, hiring, assigning posts or promoting workers. The Committee has noted that under the Voluntary Check-up System on Employment Management for Women Workers, instituted by the Minister of Labour in 1988 (following which, persons to promote equal opportunities were appointed in 20,000 establishments) enterprises are not requested to analyse and submit reports on progress. However, a Basic Survey on Women's Employment Management revealed, among other things, that while 87.3 per cent of enterprises responded that there had been no change in three years in the number of women holding director-level posts, 74.8 per cent of enterprises indicated that they planned to improve women's employment status. Within the context of this survey, an analysis of the basic thinking about the assignment of

female workers showed that 45.7 per cent of enterprises stated that they "assign female workers to jobs in which they can display their characteristics and sensitivity as females", 23 per cent stated they assign females to all jobs and 16.7 per cent said they assign women to "those jobs in which they can make the best use of their special skills"; 7.9 per cent assign females only to subsidiary jobs.

In the light of these indications, the Committee requests the Government to give consideration, in consultation with the social partners, to taking additional measures to ensure that existing inequalities in recruitment, hiring, assignment and promotion, which appear to be somewhat responsible for the maintenance or continuance of the wage gap, are remedied.

5. Recalling that the Convention, by placing the comparison of jobs on the basis of the value of the work, necessitates the use of criteria to compare the value of the different work undertaken by women and men, the Committee requests the Government to indicate the measures taken or contemplated to ensure that jobs mainly performed by women are not given a lower value than jobs mainly performed by men, on account of subjective value judgements based on traditional notions concerning the respective qualities of men and women.

#### Morocco (ratification: 1979)

In its general observation of 1991, the Committee referred to a communication dated 5 March 1991 from the Democratic Confederation of Labour and the General Union of Moroccan Workers concerning the application of a number of Conventions, including Convention No. 100. This communication was transmitted to the Government by the ILO, although the Government has not made any comment in reply to the above communication and has not supplied the report which was due on the application of the Convention.

According to the Democratic Confederation of Labour and the General Union of Moroccan Workers, indirect discrimination against women exists in practice in the public service since promotion and appointment to positions of responsibility are based on grounds of sex, which deprives a number of women of responsibility allowances. There are no detailed statistics on wage levels and allowances by sector, which means that it is not possible to ascertain whether the Government effectively applies the Convention. There is no form of collaboration between the Government and occupational organisations, in the form of general negotiations or bargaining to conclude collective agreements, contrary to Article 4 of the Convention. Moreover, in the private sector, and particularly in agriculture and traditional industries, due to the weakness of supervision and inspection, discrimination exists in respect of remuneration between men and women workers, which is contrary to the law.

The Committee trusts that the Government will supply full particulars in its next report on the points raised in the above communication, and on the questions raised in its direct request of 1990, which the Committee is bound to repeat.

Nepal (ratification: 1976)

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

The Committee notes the provisions of the new Constitution of the Kingdom of Nepal, 1990, Article 11(5) of which proscribes discrimination between men and women in regard to remuneration "for the same work". Referring to its 1990 General Observation, where the Committee emphasised the importance of ensuring the legislative application of the Convention, the Committee hopes that the Government will take all necessary measures to ensure that discrimination in remuneration is prohibited also for work of equal value. As new labour legislation will, according to the Government's report, be submitted to the next session of Parliament, the Committee urges the Government to take this opportunity to ensure legislative conformity with the Convention. Noting moreover with interest that the Government has requested advice and technical cooperation on job evaluation and on other matters relevant to the effective implementation of the Convention, the Committee suggests that the Office also be afforded an opportunity to comment on the draft legislation before it has been finalised, from the point of view of applying the provisions of the Convention. The Committee hopes that the Government will provide information on any measures taken as a result of Office assistance to further the application of the Convention.

Netherlands (ratification: 1971)

1. The Committee notes that, commenting on the application of the Convention, the Netherlands Trade Union Federation (FNV) has stated that the various forms of flexible employment relationships (viz. homework, tele-work, freelance and stand-by work) which are undertaken mostly by women, are the primary source of pay inequality. Women who carry out these forms of employment are unable to invoke any or most of the legislation proscribing discrimination because of the type of contract under which they are employed. According to the FNV, the choice of contract is mainly, if not entirely, determined by the employer (even though the employee does not object or personally opts for various elements of flexible employment). The FNV calls upon the Government to adopt a more energetic policy, including taking legislative measures, to ensure that the majority of workers engaged in these forms of employment do not remain outside the scope of legal protection. The FNV considers that such action would facilitate the elimination of large-scale inequalities in remuneration.

The Committee notes that, in responding to the above comment, the Government has stated that the problem of so-called flexible labour relations is considered to be an important policy issue in the country. The Government also states that Convention No. 100 does not specifically oblige governments to take the action requested by the FNV.

The Committee notes from the Government's report that all categories of workers are covered by the equal pay provisions of the

Equal Treatment for Men and Women Act, 1989, the only condition under section 1(b) of the Act being that the work be performed under the authority of an employer (an individual, a body corporate or other competent authority). The Committee requests the Government to provide information in its next report concerning the manner in which the legislation in force is interpreted by the relevant authorities and tribunals to apply to those workers about whom the FNV has expressed concern.

2. In its previous direct request, the Committee had noted that pursuant to the above-mentioned 1989 Act, the basis for comparing remuneration is restricted to the wage normally received by a worker of the other sex in the same undertaking for work of equal value or, failing that, for work of virtually equal value (section 7(1)), whereas section 3(2) of the 1975 equal pay legislation also allowed for the possibility, in cases where no work of equal or approximately equal value was done by a worker of the other sex in the undertaking where the worker concerned was employed, of extending the comparison to the wage normally received by a worker of the other sex in an undertaking of as nearly as possible the same kind in the same sector for work of equal value or, in the absence of such work, for work of approximately equal value. The Committee had requested the Government to indicate the means by which women workers who are heavily concentrated in certain sectors of activity, where the possibilities of comparison may be insufficient at the level of the enterprise, may seek to have their claims for equal pay determined. The Committee notes from the report of the Government that the possibility for extending the scope of comparison to another undertaking, as provided for under the 1975 Act, was never used in practice for the reason that it is very hard to prove that differences in wages between employees in different companies are based on sex discrimination, as this can easily be countered by stating that one company just pays better for work of the same value than another company. As the provision in question was never used, the Government did not include it in the new legislation.

The Committee recognises that the question of determining how broadly comparisons between the jobs performed by men and women should be permitted is a particularly difficult aspect of applying the Convention. Nevertheless, it is evident that adequate possibilities for comparison must be available if the principle of equal pay is to have any application in a sex-segregated labour market. As the Committee stated in its 1986 General Survey, it is essential, in order to ensure equal remuneration in an industry employing mostly women, that there be a basis of comparison outside the limits of the establishment or enterprise concerned. This is not to say that factors affecting wage levels which are outside the scope of the Convention (such as geographical location, surplus or scarcity of particular skills or the pay policies of individual enterprises) are to be excluded from consideration. It is true that differences in remuneration for women employed in different enterprises but engaged in work of equal value may be due to the fact that one company pays its workers at a higher rate. However, there may be a basis for inferring discrimination on the basis of sex if, in examining the total wage structure of the enterprises in question, it becomes



apparent that in one company, there is a consistently wider differential between female and male employees than in another comparable enterprise. In this regard, the Committee recalls that the 1975 equal pay legislation also provided that where comparisons were made outside the undertaking (pursuant to section 3(2)), account was to be taken of "general differences in the wage structures of the undertakings concerned" (section 5(3)). While acknowledging the difficulties involved in broadening the scope of comparison, the Committee requests the Government to further consider how, in practice, women workers who find their possibilities for comparison insufficient at the level of the enterprise may seek to enforce their right to equal pay for work of equal value.

New Zealand (ratification: 1983)

The Committee notes the information provided by the Government in its report and the comments made by the New Zealand Council of Trade Unions and the New Zealand Employers' Federation.

1. In its previous comments under Conventions Nos. 100 and 111, the Committee noted that a review of existing measures to eliminate discrimination, which focused in particular on the Equal Pay Act, 1972, and the Human Rights Commission Act, 1977, resulted in the enactment of the Employment Equity Act in August, 1990. This legislation had, however, been repealed in December 1990, shortly after coming into force because, as is reiterated in the last report, the present Government rejects its requirements for private sector employers to comply with mandatory equal employment opportunity programmes and opposes the centralised system of wage adjustment that would have been instituted through the pay equity procedures provided for in the legislation.

The Committee notes the enactment of the Employment Contracts Act, 1991 (Act No. 22 of 1991) which, according to the Government, reflects its policy that the determination of rates of remuneration is the sole responsibility of the parties to the employment contract. The Government further states that it is no longer involved in the wage-fixing process, its role with respect to Convention No. 100 being to promote the principle of equal remuneration in both collective and individual employment contracts.

The Committee has taken due note of the provisions of this Act, and of the amendments made to the Equal Pay Act 1972, by the Equal Pay Amendment Act, 1991. This amendment has inserted into the Equal Pay Act the equivalent of section 15(1)(b) of the Human Rights Commission Act, 1977 (under which it is unlawful for employers to refuse or omit to offer or afford any person the same terms of employment, conditions of work, fringe benefits, and opportunities for training, promotion and transfer as are made available for persons of the same or substantially similar qualifications employed in the same or substantially similar circumstances on work of that description by reason of the sex of that person). Thus, the Equal Pay Act applies to employers who employ staff in the same workplace, whether on the basis of individual or collective contracts. An amendment to the Human

Rights Commission Act enables individuals to make an equal pay claim either under that Act or the Equal Pay Act.

2. The Committee must clarify the scope of the obligation imposed on a ratifying State either to ensure or to promote the application of the principle of the Convention. The Committee points out that under Article 2.1 of the Convention, a ratifying government's obligation to ensure implementation of the principle is limited to those areas where the government is in a position to exert direct or indirect influence on the wage-fixing process; in all other cases, the government must promote the application of the Convention. While the Convention does not require that legislation be enacted, legislative action does, however, extend the government's competence to intervene in the field of wages and hence widen the scope for ensuring application of the principle, at least to the extent of the intervention. In the present case, the Government is obliged, by virtue of the provisions of the Equal Pay Act, 1972, and of the Human Rights Commission Act, 1977, to ensure that the provisions of those texts are complied with in all employment contracts concluded pursuant to the Employment Contracts Act, 1991. The Committee therefore requests the Government to supply information on the measures being taken to ensure the implementation of these Acts, more particularly in respect of individual employment contracts concluded pursuant to the Employment Contracts Act, 1991.

3. The Committee has also noted the comments of the New Zealand Council of Trade Unions concerning the permissible scope of comparison for the purpose of determining equal pay. The Council states that comparisons can be made only between workers employed by the same employer, whereas before the enactment of the Employment Contracts Act, it was possible, through the registration of agreements, to ensure that wage parity was applicable to all workers within the occupation or industry covered by the agreement. Of greater significance, states the Council, is the complete lack of any mechanism for ensuring that an occupation or skill which is performed largely by women workers is paid at comparable rates to those paid to workers in a comparable occupation or skill performed largely by males.

While acknowledging the difficulty in determining how broadly comparisons between the jobs performed by men and women should be permitted, the Committee observes that adequate possibilities for comparison must be available if the principle of equal pay for work of equal value is to have any application in a sex-segregated labour market. In order to ensure implementation of the principle in an occupation or industry employing mostly women, it is essential that there be a basis of comparison outside the limits of the establishment or enterprise concerned. The Committee requests the Government to provide information in its next report on the measures taken or contemplated to ensure the application of the principle of equal remuneration for work of equal value in respect of those women workers in the private sector who find their possibilities for comparison insufficient in their particular workplaces.

Recalling, moreover, that the Government Service Equal Pay Act, 1960, provides for the possibility of making comparisons with scales of pay in other sections of employment when women government employees perform work of a kind which is exclusively or principally performed

by women (section 3(1)(b)), the Committee requests the Government to provide information concerning the use, in practice, of that provision.

4. The Committee has noted with interest the information provided by the Government on the measures taken to promote equal remuneration (outlined in the Government's response to the Recommendations of the Working Party on Equity in Employment, January 1991). Particular note has been taken of the publication and wide distribution of the manual, "Equity at Work; An Approach to Gender Neutral Job Evaluation" (State Services Commission, July 1991) which was developed to overcome gender bias in traditional job evaluation systems. The Committee has also noted that an Equal Employment Opportunities Trust will be established by the Government with private sector employers to promote equality. Significant funding has also been committed by the Government to promoting equality in the private sector.

The Committee hopes that the Government will supply further details on the promotional activities undertaken, including those of the Equal Employment Opportunities Trust, and requests the Government to continue to provide information concerning the impact of all of the above-mentioned initiatives on the application of the Convention.

5. The Committee has noted the statistical data provided by the Government which indicates that women's average hourly earnings are about 80-81 per cent of those of men. In this regard, the Committee notes the comment of the New Zealand Employers' Federation to the effect that the differential between female and male wages is an earnings gap which may be accounted for by many factors other than an alleged disparity in rates of pay, such as age, length of service, education and training, incidence of part-time employment and, in particular, the tendency for women notably married women or women with partners - to take time out of the paid workforce for family responsibilities. In considering the difficulties experienced by member States in reducing the wage differential, the Committee has stressed that real progress is possible only when action to implement the Convention is taken within the broader context of measures to promote equality between women and men generally. The Committee hopes that some of the constraints to reductions in the wage differential, such as education, training, and women's family responsibilities, will be addressed in the context of the measures being taken to promote equality in general.

#### Norway (ratification: 1959)

The Committee has noted with interest the detailed information supplied by the Government in its report.

1. The Committee notes the Government's statement that the number of complaints made to the Equal Status Ombud concerning equal pay contraventions under section 5 of the Equal Status Act seem to have become stabilised at a relatively low level in relation to the pay inequalities that still exist. The Government emphasises that though it is not unusual for wage inequalities to be corrected without reference to the Ombud (especially as employee organisations have been making more active use of the Act) it must conclude that the public



still has too little information about the Act and the mechanisms of appeal. Moreover, states the Government, it is also likely that some of those with the necessary knowledge choose not to complain: the high rate of unemployment is probably one explanation for this situation.

As to the nature of the complaints dealt with by the Ombud, the Committee has noted that most complaints concern basic remuneration; complaints with respect to other supplements, bonuses or benefits have diminished. The Committee notes with interest, however, that the Ombud has initiated an inquiry into a private sector agreement which excludes from severance pay those employees filling less than 50 per cent of a position. It notes that the Ombud will consider whether this represents indirect discrimination in view of the fact that those excluded from the agreement are primarily women.

The Committee has also noted that some questions of principle have been determined by the Equal Status Appeals Board and by the Labour Disputes Court concerning the scope of comparison for the purposes of equal pay. For example, it has been determined by the Appeals Board that comparisons in job appraisal do not have to be made between workers who are employed concurrently; and a judgement of the Labour Disputes Court has recognised that different occupations may be regarded as comparable if there are similarities as regards training for the occupation and the job assignments involved and if the employees in the different occupations work with some degree of collaboration at the same workplace. In this connection, the Committee notes that the Equal Status Ombud considers that comparisons between workers with different types of specialised training should be further encouraged. Noting also from the report that the Equal Status Act is at present under revision, the Committee requests the Government to provide information on any amendments made to the Act; and to continue to furnish details on the outcome of equal pay matters dealt with by the Ombud and the above-mentioned courts.

2. The Committee notes that as part of a modernisation of the public sector, new wage determination systems have been introduced for the central and local governments. The objective of this initiative is to provide greater flexibility and opportunities for the differentiation of pay according to education or training, practice or competence, to improve the possibility of recruiting and keeping qualified workers by reducing the differences in pay between the private and the public sectors; and to decentralise decision-making and give individual undertakings the opportunity to use pay as a means of achieving better results.

The Committee further notes that the Equal Status Ombud and the Equal Status Council have drawn the attention of the Minister of Labour and Government Administration to the need to ensure that these flexible wage systems do not increase pay inequalities between women and men. These bodies have pointed out that the criteria for determining wages must be non-discriminatory in practice. They have stated in this regard that while many criteria are theoretically neutral as regards gender (e.g. willingness to work overtime, to take on jobs with difficult working hours) in practice they create greater difficulties for women than for men because women still bear the main responsibility for caring for their families. Thus requirements are

needed to link performance specifically with work done during normal working hours (with appropriate adjustments for part-time work); and it is necessary to stipulate that absence in connection with statutory maternity leave must not have negative consequences for performance evaluation. The equal status bodies have also pointed out that, in hiring, it must be recognised that women and men have different ways of marketing themselves and men often find it easier both to make demands and to have them accepted. Further, existing pay inequalities between women and men will be aggravated if a decisive weight is given to the fact that an applicant is considered to have a high market value or already occupies a highly paid position.

The Committee would be grateful if the Government would continue to report on the impact these new wage-fixing systems have on the application of the Convention.

3. The Committee notes with interest from the report, as well as the information supplied by the Government in its last report on Convention No. 111, that a range of national projects are being undertaken as part of the Government's participation in the Nordic Equal Pay Project (1989-93), including an information campaign on wage differences with the involvement of all relevant agencies. The campaign is directed at the 1992 collective wage negotiations and focuses on structural pay inequalities, that is, the fact that women's work is paid systematically less than men's. In this regard, the Committee has noted the comments transmitted by the Confederation of Norwegian Business and Industry (NHO) under Convention No. 111, which pointed out that the real problem in Norway is that positions held mainly by women have lower wages than those held mainly by men (rather than that there are wage differences between women and men in the same positions).

The Committee requests the Government to supply information regarding the impact of the above-mentioned campaign, as well as those other national projects on which the Government has reported, in reducing the wage differential.

4. The Committee notes that pursuant to the framework agreement on equal status concluded between the Federation of Trade Unions and the Confederation of Business and Industry 1981, and revised in 1985, specific agreements have been concluded in a number of enterprises but that, reportedly, the further development of agreements has been inhibited by difficulties owing to, among other reasons, the high rate of unemployment. The Committee requests the Government to provide details on any progress made in the conclusion of these agreements.

5. The Committee notes with interest that the Federation of Trade Unions denoted equal remuneration as one of their priority areas for the period 1990-93. In this connection, it notes that a committee of representatives from employers' and workers' associations was appointed during the collective wage agreement negotiations to discuss possible strategies for achieving equal remuneration; and that this has taken the form of a project aimed, *inter alia*, at investigating ways of making job appraisal systems into appropriate instruments for reducing pay inequalities. The Committee requests the Government to furnish details concerning this project.

6. The Committee has also noted with interest the statistical data supplied by the Government with its report which show an

acceleration in the trend towards greater equality, following a period of stagnation in the relative earnings of women and men in the 1980s. The Committee requests the Government to continue to supply such data in its future reports.

Philippines (ratification: 1953)

1. Further to its previous comments, the Committee notes with interest that following the 1989 amendment to article 135 of the Labor Code (which provides for penal sanctions to be imposed for acts of discrimination against women, including discrimination in remuneration for work of equal value), the Government has taken a number of measures to further the application of the Convention. In this regard, the Committee notes that the Bureau of Local Employment (Department of Labor and Employment) is conducting a survey in each occupational sector to compile information on the requirements of different jobs and the salaries paid with a view to evaluating and classifying posts in accordance with the principle of equal pay for work of equal value. The Committee requests the Government to supply details on the methods and criteria used to prepare this classification and to supply information on the outcome of the project.

2. The Committee also notes with interest that within the context of implementing the Philippine Development Plan for Women (1989-1992), a subcommittee has been established in the Department of Labour to define the activities which should be undertaken to implement equal employment opportunity, including pay equity. The Committee requests the Government to supply information concerning the results of this initiative.

3. The Committee notes from the report that a Bill (No. 151) has been introduced into the House of Senate concerning equality of opportunity for women, which would also establish implementing machinery for this purpose. The Committee requests the Government to furnish the text of any legislation adopted on this topic and to provide information concerning its relevance to the application of the Convention.

Saudi Arabia (ratification: 1978)

In its previous direct request the Committee noted that the reports supplied by the Government since 1978 have not shed light on the extent to which the Convention is applied in practice. The Government has consistently indicated that the problem of discrimination in remuneration on the basis of sex does not exist in the country and in particular that no provision of the legislation either authorises or envisages discrimination in this respect. It also referred to the job classification systems which, it has indicated, preclude any possibility of discrimination on grounds of sex. The Committee noted that there are no legislative provisions which are discriminatory but nor are there any provisions which forbid discrimination in respect of remuneration on the grounds of sex or

which make obligatory the principle of equal pay for men and women workers for work of equal value.

In its last report, the Government reiterates its statement that the principle embodied in the Convention is applied in practice. It states that the provisions of the conditions of employment of the public service relating to job classification on the basis of an objective evaluation of jobs exclude any possibility of discrimination. With regard to the private sector, it refers to section 8 of the Labour Code, which provides that the subcontractor is obliged to provide workers in his service with the same rights and benefits as those given by the initial employer and states that equality is therefore obligatory, and that this includes remuneration, and that by virtue of the principles of legal analogy, the employer is obliged to establish equality between his or her workers in respect of remuneration for equal work and equal working conditions, skills and experience. It concludes that there is therefore no reason to include in the legislation a text affirming equality or prohibiting any discrimination in relation to remuneration. Such a text, in addition to section 8 above, which is a general text that does not provide for any discrimination between workers on grounds of sex, would be completely superfluous.

The Committee notes that under the terms of section 8 of the Labour Code, "if the employer trusts to a natural or juridical person one of his principal operations or any part thereof, the latter shall give his or its employees all the rights and privileges granted by the employer to his own employees and both shall be jointly and severally responsible for such rights and privileges." The Committee requests the Government to indicate the judicial or other decision under which this section is interpreted as imposing upon all employers covered by the Labour Code the obligation of ensuring equality between all employees in their service, and in particular equal remuneration for men and women workers for work of equal value.

The Committee has also noted that, once again, the Government states it is not in a position to supply statistical data relating to the wages of men and women in the private sector.

The Committee draws the Government's attention to Article 2, paragraph 1, of the Convention, under which each Member which has ratified the Convention shall promote and, where appropriate, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. Paragraph 2 of that Article provides that this principle may be applied by means of: (a) national laws or regulations; (b) legally established or recognised machinery for wage determination; (c) collective agreements between employers and workers; or (d) a combination of these various means. The Committee observes that, according to the information supplied by the Government up to the present time, none of these means seems to have been used up to now to implement the principle set out in the Convention and the Government has not taken any positive measures to give effect to the Convention. Moreover, since no statistical data is available, the Committee is unable to assess objectively the extent to which the Convention is applied.

The Committee hopes that the Government will reconsider its position as regards the need for legislative provisions explicitly

giving effect to the principles set out in the Convention and that it will indicate in its next report the measures that have been taken or are envisaged in this respect.

In addition, the Committee trusts that the Government will endeavour to collect statistical data on wage rates and average earnings of men and women in the private sector, if possible by occupation, branch of activity, seniority and skill levels, as well as the corresponding percentage for women, and that it will supply this information in its next report.

With regard to the public service, the Committee requests the Government to indicate the functions or jobs corresponding to each of the grades set out in the salary scale for officials and for employees, and the number and percentage of women in the various grades and the functions or jobs that they perform.

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

#### United Kingdom (ratification: 1971)

The Committee notes the information supplied by the Government in its report in reply to its previous comments and to the comments submitted by the Trades Union Congress (TUC) in 1990. It also notes that the TUC communicated further comments in December 1991, which were transmitted to the Government and that the Government intends to reply to those comments in its next report.

1. The Committee has noted with interest from the Government's report that following the ruling of the European Court of Justice on 17.5.90 in the case of Barber v. Guardian Royal Exchange Assurance Group (in which the Court ruled that benefits paid from occupational pension schemes are "pay" within the meaning of Article 119 of the Treaty of Rome) the Government has announced its commitment to achieving equal treatment for women and men in the state pension scheme as well as in occupational pension schemes, in particular, as concerns unequal pension ages. The Committee hopes that the Government will continue to provide information on the matter, including any further court rulings, and that it will indicate the decisions taken or envisaged in this direction.

2. In recent years, the Committee has noted the measures being taken by the Equal Opportunities Commission (EOC) to review, in consultation with the Government, employers' organisations, trade unions and other interested bodies, the application of the Equal Pay Act, 1970, as amended. The Committee's observation of 1990 had noted that the EOC presented its considerations in its 1989 consultative document "Equal Pay ... Making it Work". The Committee notes that the EOC's formal proposals were submitted to the Government, in November 1990, in a document entitled "Equal Pay for Men and Women: Strengthening the Acts". The EOC has concluded in that document that "the present legislation is ineffective for dealing with pay inequalities deeply rooted, often unconsciously, in pay structures and collective agreements ..." and calls for the "establishment of a legal framework and procedures which facilitate rather than impede an individual's access to judicial determination", makes recommendations

for dealing with the wider implications of individual cases and for effectively tackling sources of inequality in pay structures and collective agreements and reaffirms its previous proposal for the enactment of a single consolidated equal treatment statute.

In its comments of December 1991, the TUC has pointed to the EOC's support for the concerns previously expressed by the TUC and, in particular, the TUC's proposals that an employer's existing job evaluation study should not operate as a bar to an equal value claim, and that an equal pay award to an individual applicant should be extended to all employees in the same employment who do the same or broadly similar work. The TUC has also reiterated its concern that the complexity and lack of clarity of the present legislation result in long delays in the determination of workers' rights.

The Committee notes from the report of the Government that the TUC and the CBI (Confederation of British Industry) had the opportunity to convey their views on the EOC's proposals and that these proposals, as well as similar proposals put forward by the EOC for Northern Ireland, are under active consideration by the Government. The Committee requests the Government to indicate, in its next report, the measures taken or envisaged to respond to these proposals.

3. The Committee notes from the report of the Government that in Great Britain women's average earnings (excluding overtime) in relation to men's have continued to rise over the last four years and increased appreciably from 76 per cent in 1989 to 78.2 per cent in 1991. In Northern Ireland, women's average hourly earnings (excluding overtime) rose from 78.6 per cent of men's in 1989 to 80 per cent in 1990. The Committee requests the Government to continue to supply statistical data illustrating the evolution of the wage differential.

4. The Committee is raising other matters in a request addressed directly to the Government.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Angola, Belarus, Belgium, Benin, Brazil, Bulgaria, Cape Verde, Central African Republic, Chile, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Denmark, Djibouti, Dominican Republic, Dominica, Ecuador, Egypt, France, Gabon, Ghana, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Lebanon, Libyan Arab Jamahiriya, Madagascar, Mali, Malta, Mexico, Morocco, Mozambique, Netherlands, Niger, Nigeria, Paraguay, Peru, Philippines, Poland, Romania, Russian Federation, Rwanda, Saint Lucia, San Marino, Sao Tome and Principe, Senegal, Sierra Leone, Spain, Sudan, Swaziland, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Ukraine, United Kingdom, Yemen, Yugoslavia, Zaire, Zimbabwe.



**Convention No. 101: Holidays with Pay (Agriculture), 1952**

A request regarding certain points is being addressed directly to Sierra Leone.

**Convention No. 102: Social Security (Minimum Standards), 1952**

Austria (ratification: 1969)

Article 24 of the Convention (in conjunction with Article 69(f)). With reference to its previous comments, the Committee has noted with interest the adoption of Circular No. 38-532/9-3/90 of 29 May 1990 of the Federal Ministry of Labour and Social Affairs, which specifies for the information of the Länder authorities that the notion of "misconduct" referred to in section 11 of the Unemployment Insurance Act should be understood to mean wilful misconduct on the part of the worker and that mere negligence is not in itself sufficient to justify a penalty. It also notes that the possibility of settling this question in the law is under discussion at the present time.

The Committee would be grateful if the Government would continue to supply information on this subject.

Costa Rica (ratification: 1972)

1. With reference to its previous comments in connection with the representation made by a number of trade union organisations of Costa Rica in 1984 under article 24 of the ILO Constitution alleging in particular non-payment to the Banco Popular and the Costa Rican Social Security Fund of the employers' contributions due from the State (Article 71, paragraph 2, of the Convention) and non-revaluation of pensions (Article 65, paragraph 10, and Article 66, paragraph 8), the Committee notes with interest that the Government discharged its obligations to the sickness and maternity insurance schemes by means of bonds in 1988 and in 1989. It also notes that the agreement concluded between the Ministry of Finance and the Costa Rican Social Security Fund on 7 December 1988 has been carried out in full. It would again be grateful if the Government could supply information on the progress made in the reform of the medical care financing system provided for in the above agreement.

With regard to the review of pensions, the Committee points out that it has always attached importance to this question; in this connection it refers to the general observations it made in 1989 relating to Conventions Nos. 102 and 128, in which the Committee considers, in particular, that, given the effects of inflation on the general level of incomes and the trend in the cost of living, governments should consider reviewing long-term benefits, especially in the general economic climate of today. The Committee consequently asks the Government to do everything possible to continue to apply the aforementioned Article 65, paragraph 10, and Article 66, paragraph 8,

of the Convention and to supply in its future report the statistical information requested for these Articles of the Convention, conforming to the report form adopted by the Governing Body under Article 65, Title VI.

2. Part VI (Employment injury benefit), Articles 34, 36 and 38 of the Convention (also in conjunction with Article 69). In its previous comments, the Committee requested the Government to take the necessary measures to amend sections 218, 228 to 232, 237 to 239 and 243 of Act No. 6727 of 1982 in order to bring them all into full conformity with the above-mentioned provisions of the Convention concerning: (a) the nature of medical care, which must correspond to the provisions of Article 34 of the Convention and be provided free of charge throughout the contingency (namely, until recovery or the stabilisation of the person's invalidity); (b) the grant of cash benefits, also throughout the contingency, in the event of a minor or partial permanent disability and in the event of death. Under the above-mentioned sections of Act No. 6727, such benefits are, in both cases, paid for a period of five or ten years depending on the circumstances, whereas the Convention stipulates that they must be provided throughout the contingency (that is to say, to the victims for their life and to their dependants for as long as they fulfil the conditions prescribed under national law).

In a previous report, the Government indicated that with regard to medical care it was considering, through the Costa Rican Social Security Fund, how it could regulate the matter in conformity with the provisions of the Convention, and that it had referred the question of the amendment of section 237 to the National Insurance Institute, the body responsible for such matters. As regards cash benefits, the Government indicated that a commission composed of representatives of the Ministry of Labour, the Costa Rican Social Security Fund and the National Insurance Institute was considering the question of bringing Act No. 6727 into conformity with the Convention. Furthermore the amendments proposed, particularly those to sections 218, 228, 232, 237, 238, 239 and 243 of the above-mentioned Act, were to be studied in depth by a subcommission which was to submit a report on the matter to the Technical Committee responsible for drafting the new Labour Code. Since there is no information on the subject in the latest report either, the Committee again expresses the hope that those reforms can be carried out in the very near future and that they will bring the national law into full conformity with the Convention. It asks the Government to report on progress made in the above reforms.

In view of the importance of this problem, the Committee ventures to suggest to the Government that it might request the technical advice of the ILO with a view to overcoming this difficulty of application in the near future.

In addition the Committee would like the Government to supply detailed information on the questions raised in a direct request.

Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes from the information supplied by the Government in its report that the National Committee for the Study of



International Labour Conventions and Recommendations, established by Decision No. 72 of 1985 as amended, recommends the introduction of provisions concerning Part IV (Unemployment benefit) and Part VII (Family benefit) of the Convention into the social security scheme unless the decision is taken to denounce the above-mentioned Parts in accordance with Article 82, with the consequent disadvantages.

The Committee takes note of this statement. It ventures to remind the Government of the possibility of requesting the technical cooperation of the ILO to assist it in resolving the difficulties encountered. It therefore hopes that the Government will be in a position to take the necessary measures to introduce into the Libyan social security scheme provisions concerning unemployment benefit and family benefit so as to ensure the application of Part IV (Unemployment benefit) and Part VII (Family benefit). It asks the Government to indicate in its next report the progress made in that respect.

In addition the Committee again draws the Government's attention to a number of points which it is raising in a request addressed directly to the Government.

\* \* \*

Requests regarding certain points are being addressed directly to the following States: Costa Rica, Iceland, Libyan Arab Jamahiriya, Luxembourg, Spain, Zaire.

### **Convention No. 103: Maternity Protection Convention (Revised), 1952**

Austria (ratification: 1969)

Article 6. (a) The Committee notes the Government's statement that efforts to enact the bill to amend the Maternity Protection Act so as to restrict termination of a fixed-term employment relationship for pregnant women, where the fixing of a term is not justified in practice or prescribed by statute, will be pursued during the current legislative session. It also notes that, after its enactment, the proposed changes would also be made in the Agricultural Labour Act. The Committee would like the Government to supply information in its future reports on any progress made in the adoption of the aforementioned amendment to the national legislation, so as to give better effect in practice to this provision of the Convention.

(b) The Committee further notes from the Government's report that no measures have been taken to bring the national legislation (sections 10 and 12 of the Maternity Protection Act, sections 102 and 103 of the Agricultural Labour Act) into full conformity with this Article of the Convention. It, however, notes, besides certain measures taken by the Maternity Leave Extension Act, 1990 to extend the protection against dismissal, the Government's intention to modify section 12 of the Maternity Protection Act in such a way as to bring the grounds for dismissal up to date and to make the dismissal of a woman worker by the employer subject to the consent of the Labour and

Social Court. The Committee would like to draw the Government's attention to the fact that the national legislation and the proposed amendment mentioned above, while providing certain guarantees against abusive dismissal, are not sufficient to give effect to this Article of the Convention, which prohibits employers to give a woman notice of dismissal during her absence on maternity leave or at such a time that the notice would expire during such absence. The Committee therefore reiterates its hope that the Government will not fail to take the necessary legislative measures in the near future in order to ensure complete conformity of the national legislation with the Convention on this point.

Ecuador (ratification: 1962)

1. Article 3, paragraphs 2 and 3, of the Convention. Further to its previous observations, the Committee notes with satisfaction the adoption of Act No. 133 of 13 November 1991, sections 23, 24 and 25 of which amend sections 153, 154 and 155 of the Labour Code, in conformity with these provisions of the Convention, by extending the total duration of maternity leave to 12 weeks, ten of which have to be compulsorily taken after confinement.

2. The Committee hopes that, according to the assurance given by the Government in its last report, necessary measures at the level of the Ecuador Social Security Institute will be adopted in the very near future so as to align, in accordance with Article 4, paragraph 1, of the Convention, the period during which cash and medical benefits are granted with that of maternity leave, as set out in section 153 of the Labour Code as amended, 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.

3. The Committee takes note of the statistical information supplied by the Government on the number of women workers protected by the compulsory social insurance and by the peasants' social insurance scheme. It hopes that the Government's next report will also contain statistical information reflecting the number of women workers protected as a percentage of the total number of women workers. Furthermore, the Committee expresses the hope that the Government will be able to provide information on any further extension of the social security scheme so as to cover all the categories of women workers referred to in Article 1 of the Convention throughout the country.

Equatorial Guinea (ratification: 1985)

The Committee notes with satisfaction the adoption of General Labour Act No. 2 of 4 January 1990 which provides, in its section 52, paragraphs 2 and 3, and in section 79, paragraph 3, for a maternity leave of 12 weeks, which can be extended in case of illness arising out of pregnancy or confinement, for remunerated nursing breaks and for the prohibition to give a woman notice of dismissal during her absence on maternity leave in conformity with Article 3, paragraphs 2, 3, 5 and 6, Article 5, paragraph 2, and Article 6 of the Convention.

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

\* \* \*

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

### **Convention No. 105: Abolition of Forced Labour, 1957**

#### Angola (ratification: 1976)

The Committee notes with satisfaction the repeal of the following laws and provisions under which sentences involving compulsory labour could be imposed in circumstances falling within the scope of the Convention and on which the Committee had commented:

- Legislative Decree No. 3/75 of 8 January 1975 which laid down restrictions on the exercise of the right to strike (repealed by Act No. 23/91 of 15 June 1991);
- section 23(1) and (2) of Act No. 7/78 of 10 June 1978, under which a sentence of imprisonment could be inflicted on persons who encourage, prepare or organise the paralysis of a work centre (repealed by Act No. 23/91 of 15 June 1991);
- section 8, 24(1) and (2) of Act No. 7/78 of 10 June 1978 concerning, respectively, the publicising of false assertions damaging to the reputation of the State and the disturbance of the public order by any means whatsoever (repealed by Act No. 22/91 of 15 June 1991).

The Committee notes with interest the adoption of Act No. 23/91 of 15 June 1991 respecting the right to strike; Act No. 22/91 of 15 June 1991 respecting the press; Act No. 16/91 of 11 May 1991 respecting freedom of assembly and opinion; Act No. 14/91 of 11 May 1991 respecting associations.

#### Bangladesh (ratification: 1972)

The Committee notes the Government's report. The Committee also takes note of the observations made by the Bangladesh Employers' Association.

Article 1(c) and (d) of the Convention. 1. In its previous comments, the Committee observed that under sections 101 and 102 of the Merchant Shipping Act, 1923, seamen could be forcibly conveyed on board ship to perform their duties, and under sections 100 and 103(ii), (iii) and (v) various disciplinary offences by seamen, concerning cases where life, health or safety are not endangered, were punishable with imprisonment which may involve an obligation to work. The Committee noted that the Bangladesh Merchant Shipping Ordinance, 1983, which has repealed the 1923 Act, again provided in sections 198 and 199 for the forcible conveyance of seamen on board ship to perform

their duties, and in sections 196, 197 and 200(iii), (iv), (v) and (vi) for the punishment, with imprisonment which may involve an obligation to work, of various disciplinary offences in cases where life, safety or health are not endangered.

The Committee requested the Government to review the Ordinance adopted in 1983 and to indicate the measures taken or contemplated to bring it into conformity with the Convention. The Government has previously indicated that it is examining the Committee's suggestion. In its latest report, the Government merely states that it has taken note of the Committee's comments.

The Committee notes that in its observations the Bangladesh Employers' Association (BEA) recalls that in its last reply it suggested that the Ministry of Labour and Manpower may like to consult the Ministry of Shipping to bring the Merchant Shipping Ordinance, 1983, into conformity with the Convention.

The Committee expresses once again the firm hope that the Government will soon be in a position to indicate that the necessary action has been taken to bring the Ordinance into conformity with the Convention.

2. A certain number of other legislative texts which call for comment under Article 1(a), (c) and (d) of the Convention are again dealt with in a request addressed directly to the Government.

#### Belgium (ratification: 1961)

Article 1(c) of the Convention. In the comments it has been making for many years, the Committee has noted that, under sections 10, 22, 25, subsections 1 and 2, 26, subsection 1, 27 and 28 of the Disciplinary and Penal Code for the Merchant Marine and the Fishing Fleet, seamen guilty of certain breaches of labour discipline are liable to imprisonment involving, under section 30bis of the Penal Code, the obligation to work.

The Committee noted the Government's repeated indications that draft amendments to these provisions were being prepared and that the provisions in question were no longer applied in practice.

The Committee notes the information supplied by the Government in its report to the effect that the aforementioned Code is now being revised. The Committee notes with interest that the Shipping Administration intends to repeal the whole of section 10 and the provisions of sections 22 and 25 in so far as they deal with penalties of imprisonment, and that this repeal might be effected through a draft Act for the approval and application of certain ILO Conventions. The Committee notes that the Government nevertheless considers that the offences punishable under sections 26 to 28 of the Code constitute, not breaches of discipline, but offences endangering the safety of the vessel and violating public order and that the penalties imposed, having no connection with labour discipline, are not in conflict with the Convention.

The Committee notes that section 26, subsection 1, prescribes penalties of imprisonment (involving compulsory work) for outright refusal to obey orders for the handling of the vessel or the maintenance of good order (sections 27 and 28 prescribe severer

penalties for dereliction of duty in the case of officers or crewmen acting collectively). Unlike the provisions just mentioned, section 26, subsection 2, for its part, refers specifically to orders given for the safety of the vessel, the persons on board or the cargo and hence does not fall within the scope of the Convention. The Committee refers in this connection to the explanations it gave in paragraphs 117-119 of its General Survey of 1979 on forced labour, in which it stated that the Convention did not cover sanctions relating to acts tending to endanger the ship or the life or health of persons on board, unlike sanctions relating more generally to breaches of labour discipline such as desertion, absence without leave or disobedience.

The Committee hopes that the Government will re-examine the provisions of section 26, subsection 1, and those of sections 27 and 28 (in so far as they concern the cases referred to in section 26, subsection 1) in the light of the Convention and the explanations mentioned above. The Committee asks the Government to supply information on the measures taken or contemplated in that connection and on the progress of the project for repealing section 10 and partly repealing sections 22 and 25 of the Code.

#### Benin (ratification: 1961)

The Committee notes with interest that a new Constitution was adopted in 1990 guaranteeing in particular, in sections 23, 24, 25 and 31, freedom of opinion and expression, freedom of the press, freedom of association and assembly, the right to hold processions and demonstrations and the right to strike. Under section 40, it is the duty of the State to ensure the dissemination and teaching of the Constitution, the Universal Declaration of Human Rights, the African Charter of Human and Peoples' Rights, and all international instruments that have been duly ratified concerning human rights. Under section 114, a Constitutional Court decides on the constitutionality of the law and guarantees basic human rights and fundamental freedoms. Under section 142, a central audio-visual and communication authority is responsible for guaranteeing and securing freedom and protection of the press. The Committee also notes that, according to the provisions of section 158, unless any new texts are issued, the legislation in force remains applicable pending the establishment of the new institutions, in so far as it is not contrary to the Constitution.

The Committee also notes Law No. 90-028 of 9 October 1990 providing amnesty for acts other than those of common offenders, committed between 26 October 1972 and 9 October 1990.

The Committee also notes the Government's statement in its report that work on the revision of texts that are contrary to the provisions of the Convention is under way. The Committee hopes that the Government will provide information on the measures taken or envisaged to ensure observance of the Convention with regard to a number of provisions to which the Committee refers in a request addressed directly to the Government.

Brazil (ratification: 1965)

The Committee refers to its comments relating to the application of Convention No. 29.

Burundi (ratification: 1963)

Article 1(a) of the Convention. 1. In its previous comments, the Committee noted that certain provisions impose restrictions on the freedoms of association and publication that are enforceable by imprisonment involving the obligation to work by virtue of section 40 of the Ministerial Order No. 100/325 of 15 November 1963 to organise prison labour. In this connection, the Committee referred to certain provisions of Legislative Order No. 001/34 of 23 November 1966 respecting the single national party, Act No. 1/136 of 25 June 1976 (amended by Legislative Decree No. 1/4 of 28 February 1977) respecting the press, and section 426 of Legislative Decree No. 1/6 of 4 April 1981 to reform the Penal Code.

The Committee recalls that Article 1(a) of the Convention prohibits the use of forced or compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee notes that, according to the Government, the provisions concerning the press (particularly the requirement of prior authorisation) aim to prevent disorder and abuse of all kinds and that they are commonly to be found in national legislation.

The Committee notes that under the provisions of Act No. 1/136 of 1976, the duties of journalists in the area of ideology and national political activity include that of working as patriots in belief and awareness of the party ideals.

The Committee wishes to draw attention to paragraph 138 of its General Survey of 1979 on Forced Labour in which it pointed out, amongst other things, that provisions of this kind make it possible to deprive individuals of the right to publish their views by a discretionary administrative decision which is not dependent on the commission of any criminal offence. Insofar as the provisions in question are enforced by penalties involving the obligation to work, they may accordingly lead to the imposition of compulsory labour as a punishment for expressing political opinions or ideological views. The same possibility arises where the authorities have broad powers to ban any newspaper in the public interest or to prohibit publications if in their opinion such a measure is in the public interest or the publications might harm the edification of the nation. In such cases, observance of the Convention is in jeopardy.

The Committee notes the Government's reiterated statement that consultations are being pursued with a view to revising the legislation on prison labour to explicitly exclude political prisoners from its scope. The Committee asks the Government to report on the status of the above revision.

2. The Committee notes with interest that a constitutional committee set up in March 1991 to discuss the democratisation of institutions and political life submitted a report in September 1991

which should enable a new Constitution to be drawn up. The Committee hopes that when the new Constitution and other legal texts are prepared, due account will be taken of the requirements of the Convention and that the provisions which are contrary to the Convention will be repealed. It requests the Government to provide information on developments in this respect and to provide a copy of the Constitution as soon as it is adopted.

Cameroon (ratification: 1962)

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

1. Article 1(a) of the Convention. The Committee notes with interest Decree No. 90-1459 of 8 November 1990 to set up the National Commission on Human Rights and Freedoms. The Committee also notes the following Laws adopted on 19 December 1990: Law No. 90-46 to repeal Ordinance No. 62-OF-18 of 12 March 1962 to repress subversive activities; Law No. 90-52 relating to freedom of mass communication; Law No. 90-53 relating to freedom of association; Law No. 90-55 to lay down regulations governing public meetings and processions; and Law No. 90-56 relating to political parties (instituting political pluralism). The Committee has also taken note of Law No. 90-47 relating to the state emergency, Law No. 90-54 relating to the maintenance of law and order, Law No. 90-60 to set up and organize the State Security Court and Law No. 90-61 to amend certain provisions of the Penal Code, all adopted on 19 December 1990.

The Committee is addressing a request directly to the Government concerning certain provisions of the aforementioned Laws in relation to the application of the Convention.

2. Article 1(c) and (d). In the comments it has been making for many years, the Committee has noted that, by virtue of sections 226, 229, 242, 259 and 261 of the Merchant Shipping Code (Ordinance No. 62/DF/30 of 1962), certain breaches of discipline committed by seamen may be punished by penalties of imprisonment involving the obligation to work.

The Government has previously stated that it would take the Committee's observations into account when the revision of the Merchant Shipping Code was undertaken. The Committee notes that the information given by the Government in its latest report to the effect that the Merchant Shipping Code has not yet been revised and that no change can be made in the law on the subject until that has been done.

The Committee observes once again that the Government has been referring to the envisaged repeal of the provisions in question since its report for 1972-73 and that the Government had stated that studies were being made with a view to harmonising national legislation and practice with the provisions of the Convention.

The Committee asks the Government to state the outcome of those studies, to report on the progress made in revising the Merchant Shipping Code and to supply information about the measures taken or contemplated to ensure that penalties of imprisonment involving compulsory labour cannot be imposed on seamen for breaches of discipline that do not endanger the vessel or human life or health.



Canada (ratification: 1959)

Article 1(c) and (d) of the Convention. In its previous comments, the Committee referred to sections 243(1), 244(2) and (4), 245(1) and 246(2) of the Canada Shipping Act which provide for the forcible return on board ship of deserters or those absent without leave. The Committee notes with interest the indications in the Government's report that a Bill - the Miscellaneous Statute Law Amendment Act, 1991 - which provides, inter alia, for the repeal of the provisions in question was introduced in the House of Commons in October 1991 and should be adopted before the end of 1991. The Committee requests the Government to provide a copy of the texts repealing the provisions in question.

The Committee also referred to section 247(1)(b), (c) and (d) of the same Act under which penalties of imprisonment involving compulsory labour may be imposed for breaches of discipline that do not endanger the safety of the ship or the life or health of persons. The Committee notes that this provision is not included in the revision mentioned above. According to the information contained in the Government's report, amendments to the Act have not been discussed with the sector concerned and no timetable for such discussions has been established owing to the priorities assigned to developing safety and anti-pollution legislation.

The Committee recalls that it has been commenting on these provisions for many years and expresses the firm hope that the Government will take the necessary measures to ensure that penalties of imprisonment involving compulsory labour may not be imposed for breaches of labour discipline that do not endanger the safety of the ship or the life or health of persons, and that the Government will indicate the measures taken in this respect.

Central African Republic (ratification: 1964)

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

Article 1(a) of the Convention. In the comments that it has been making for many years, the Committee has noted that sentences of imprisonment involving compulsory labour may be imposed under the following legislative provisions:

- Act. No. 63/411 of 17 May 1963 (political activities undertaken outside the "MESAN" national movement);
- Act No. 60/199 of 12 December 1960 (dissemination of publications that are banned on the grounds that they are likely to prejudice the edification of the Central African nation);
- Order No. 3-M1 of 25 April 1969 and Decree No. 70/238 of 19 September 1970 (dissemination of foreign periodicals or news that has not been approved by the censor).

The Committee has noted the repeated indications of the Government that draft amendments to these texts have been submitted to the competent national authorities with a view to their adoption and that, furthermore, the provisions of Act No. 63/411 of 17 May 1963 have fallen into abeyance following the automatic dissolution of the MESAN.

The Committee noted, however, that, by virtue of article 3 of the new Constitution, adopted in 1986, the Central African Democratic Assembly was the sole party and it also noted that penalties of imprisonment were laid down in section 4 of the above-mentioned Act No. 63/411 of 17 May 1963 for any person "who establishes or attempts to establish a party, movement, group, association or organisation of a political nature".

The Committee noted the Government's repeated statement that draft texts were before the competent national authorities with a view to their adoption. It expressed once again the hope that, in the near future, the Government would report on the measures adopted to ensure that sentences of imprisonment involving compulsory labour may not be imposed on persons who establish or attempt to establish a party, movement, group, association or organisation of a political nature outside the sole party (Central African Democratic Assembly), including measures taken to repeal the provisions of Act No. 63/411 and the other texts referred to in its comments, in order to ensure observance of the Convention, and that the Government will provide the relevant texts.

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

#### Chad (ratification: 1961)

The Committee notes that the new Constitution, promulgated by Decree No. 1036/PR/89 of 16 December 1989, was suspended in December 1990.

In its previous comments, the Committee referred to the provisions of Ordinance No. 30/CSM of 26 November 1975 and to Act No. 15 of 13 December 1959, under which any person participating in strike action may be punished by imprisonment involving compulsory labour, and to Act No. 35 of 8 January 1960 concerning subversive writings. The Committee notes the indications in the Government's report that workers in certain enterprises went on strike but were not subjected to compulsory labour. The Committee also notes that the competent ministries have again been requested to repeal or amend the texts which are contrary to the Convention.

The Committee hopes that the Government will report on any measures taken in this respect in the near future.

#### Cuba (ratification: 1958)

In its previous observation, the Committee took note of the comments submitted in January 1991 by the International Confederation

of Free Trade Unions (ICFTU) concerning the application of Convention No. 105, in which the organisation states that many young persons are compelled to work on a massive and regular basis for purposes of economic development. The allegations also refer 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, mention a study programme established in 1989 to provide a workforce for the programme to expand fruit production for export, under which 20,000 students below majority age were mobilised. ICFTU 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 requested the Government to be good enough to make its comments on the allegations submitted by ICFTU.

With regard to the allegations concerning the work of political prisoners, the Committee notes that, according to the Government, the provision of the Penal Code establishing the voluntary nature of work for persons sentenced to imprisonment is complied with in practice irrespective of the nature of the offence committed. It also indicates the labour rights recognised for prisoners: remuneration, social security and training.

The Committee takes note of the Government's comments on the ICFTU allegations concerning the imposition of forced labour on young people. In those comments, the Government describes the Cuban education system, which is based on a combination of study and work. It states that the situation alleged does not constitute a form of employment but is a matter of work performed by pre-university students for three hours a day and for periods of 30 days per year as part of the education system. The Government also refers to the Conference of Ministers of Education which recommends a systematic connection between study and work.

With reference to the activities of the Youth Labour Army, the Government indicates that young people recruited for active military service are given an opportunity to express their wish to enter the Youth Labour Army; if they do not wish to do so, they may do their military service in regular units. On being posted, a young person is assigned to a unit near his residence. While serving in the Youth Labour Army, a young person is acquiring an occupation or trade.

In previous comments, the Committee referred to section 2 of Act No. 1253 (Youth Labour Army), which provides that "all young persons who are under a duty to perform active military service and who are not called upon to perform that service in regular units of the Revolutionary Armed Forces shall be called up into the Youth Labour Army". Section 4 provides for "the performance of productive agricultural work and work of any kind that the Revolutionary Government may determine". To judge from that provision, call-up into the Youth Labour Army does not appear to depend on the young recruit's own wishes.

The Committee hopes that the Government will examine the provisions of Act No. 1253 so that the law may be brought formally into conformity with the Convention and may reflect what the Government describes as existing practice.

Cyprus (ratification: 1960)

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

In the comments that it has been making for a number of years, the Committee has noted that section 3(1) of the Supplies and Services (Transitional Powers) (Continuation) Law (Chap. 175A) authorises recourse to the provisions of Defence Regulations 79A and 79B for the purpose of maintaining, controlling and regulating supplies and services and, in particular, to secure their equitable distribution or their availability at fair prices, to promote the productivity of industry, commerce and agriculture, to foster and direct exports and reduce imports, to redress the balance of trade, and to ensure that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community. Defence Regulation 79A gives authority to direct any person to perform services for any of these purposes and to require persons employed in undertakings engaged in work essential for any such purpose, not to terminate their employment or absent themselves from work or to arrive persistently late for work, on pain of imprisonment (involving, under the Prison Regulations, the obligation to perform labour), and Regulation 79B authorises the Government to issue regulations to prohibit strikes on pain of imprisonment, by virtue of the provisions of Regulation 94.

The Committee notes the Government's repeated statements in its report and to the Conference Committee to the effect that the above provisions can only be applied to the extent that they are not in conflict with the Constitution of Cyprus, of which article 10 prohibits forced or compulsory labour except in cases which threaten the life or well-being of the population, and which permits recourse to the Supreme Court to challenge the constitutional validity of an order issued under Defence Regulation 79A. The Committee notes the Government representative's statement to the Conference Committee that the Government had nevertheless decided to take all possible steps to respect the Convention and that it proposed to amend the legislation in order to avoid any controversy. The Committee also notes the information supplied by the Government in its report to the effect that it has not had recourse to the above provisions since February 1989, that the legislation is currently being re-examined and that the Government has requested technical assistance from the Office for this purpose.

The Committee points out that, under Article 1(c) and (d) of the Convention, a ratifying State undertakes to suppress and not to make use of any form of forced or compulsory labour as a means of labour discipline or as a punishment for having participated in strikes. With reference also to the explanations provided in paragraphs 110-132 of its 1979 General Survey on the Abolition of Forced Labour, and to the request for assistance referred to by the Government, the Committee expresses the firm hope that the Government will take the necessary measures in the near future to bring the legislation into conformity with the Convention and that it will supply the text of the provisions adopted to that effect.

Dominican Republic (ratification: 1958)

The Committee notes the discussion in the Conference Committee in 1991 concerning the application of Conventions Nos. 95 and 105 by the Dominican Republic, and the report of the mediation mission to the Dominican Republic and Haiti from 10-23 August 1991. The Committee also notes the Government's report.

In its previous observation, the Committee noted the legislative and administrative measures that had been taken, with regard to the matters raised in the various recommendations made by the Commission of Inquiry and the comments of the Committee of Experts, with a view to improving the situation of Haitian workers.

The Committee requested the Government to supply information on the other measures that had been taken to supplement and give effect to the measures which had been adopted respecting the regularisation of the situation of Haitian workers who came to the country to work in the sugar-cane harvest, those who were permanently resident in the country and the descendants of Haitian citizens born in the Dominican Republic as well as the regularisation of the hiring procedure. The Committee also requested the Government to supply information on any measure taken to ensure observance of the terms of employment contracts and of the rights and freedoms of the workers, especially as regards their freedom of movement, their physical safety and moral well-being and their freedom to terminate their employment relationship, as well as their coverage on equal terms by the labour legislation.

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 521 of the report of the Commission of Inquiry). In paragraph 525 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 that 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 status.

The Committee noted in its previous observation that under section 1 of Decree No. 417/90, the General Directorate of Migration was made responsible for the work of regularising the presence of Haitian nationals.

The Committee requested the Government to state whether subsequent texts had 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 also requested the Government to supply information on the process of regularisation that had been commenced, 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, as well as on the number of permits issued, indicating the sector of activity in which those who obtained permits worked.

Furthermore, the Committee requested the Government to supply information on the measures that had 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.

The Committee notes that the Government refers in its report to the provisions of the draft Labour Code respecting the permits that have to be issued by the authorities for work in agro-industrial enterprises. The Committee notes that, according to the data supplied by the Government, the census of Haitians in cane-growing areas showed that over 100,000 Haitians were present in those regions and that the number of cane-cutters engaged under contract for the sugar-cane harvest of 1990-91 was 14,597. The Committee notes that, in the report transmitted in May 1991, the Government stated that up to that month the situation of 36,109 persons had been regularised and that 55,799 names were included on the list for the purposes of registration. Documents were being issued for 28,289 persons, while 9,252 children of Haitian nationals had been registered.

The Committee notes the information contained in the report of the mediation mission to the Governments of the Dominican Republic and Haiti, from 10-23 August 1991, according to which, with reference to the regularisation of Haitians, Decree No. 233/91 was adopted on 13 June 1991 by the President of the Republic ordering "the repatriation, at the expense of the State and in the best conditions, of foreigners under 16 years of age who had been working in the cultivation, cutting and transport of sugar-cane, as well as of persons over 60 years of age resident in state or privately-owned "bateyes" following payment of their work".

The Committee notes that, according to the mission's report, repatriation was carried out in an indiscriminate manner, in spite of the fact that the Decree referred only to persons under 16 years of age and over 60 years of age, whose repatriation, moreover in the latter case, would not appear to be justified since they had worked for many years in the Dominican Republic and were, in some cases, pensioners. According to the report, men and women of all ages, including persons born in the Dominican Republic, who either possessed residence permits or had no papers, but who had been in the country for a number of years, were also repatriated. This information was confirmed to the mission by Dominican trade union leaders and non-governmental organisations.

The Committee notes that, according to the mission's report, the adoption of the Decree 233/91 gave rise to violent round-ups and repatriation accompanied, in many cases, by violations of human and employment-related rights. The mission observed the efforts made by the Secretary of State for Labour to moderate the effects of the repatriation measures, although his efforts were obstructed by emigration officials who were only concerned with filling the weekly quota of around 200 repatriations. The Committee notes that, according to the report, the Director of Migration would not receive the mission.

The Committee notes that the mission found that the adoption of Decree No. 233 interrupted the beginnings of the process of the regularisation of the status of Haitian residents in the Dominican Republic, which had commenced under Decree No. 417/90.

The Committee requests the Government to supply information on the application of Decree No. 417/90 in which reference is made to the regularisation of the status of Haitians who have lived and worked in the country for a certain period and the issue of identity documents to persons who were born in the Dominican Republic. The Committee also requests the Government to supply information on the cases to which it refers in its report of persons whose status has been regularised, indicating the sector of activity in which the persons concerned worked.

2. The hiring procedure. The Committee requested 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 requested the Government to supply information on developments in the situation as regards the conclusion of an intergovernmental agreement with the Republic of Haiti on the engagement of Haitian workers for the sugar-cane harvest.

The Committee notes the provisions of the draft Labour Code, and particularly section 148, under which the use of intermediaries or the intervention of military personnel is prohibited in the hiring, transport or recruitment of foreign workers for the sugar industry. The same section provides that the contract of employment must establish the worker's right to unilaterally terminate the contract, to the payment of the full remuneration due in cash and in person to the worker, and the statutory minimum wage. It also provides that the contract must contain guarantees for the weighing of the sugar-cane, recognition of the right of freedom of association and the protection of the social security legislation. The Government adds that up to now no agreement has been concluded with the Republic of Haiti concerning the hiring of Haitian workers for sugar-cane cutting. It refers to the ILO mediation meeting, which initiated negotiations between the Government of Haiti and the Dominican Republic and states that the events in Haiti have made it difficult to continue the negotiations. It also states that, with regard to the hiring of sugar-cane workers, new hiring systems should be introduced for the 1991-92 sugar-cane harvest.

The Committee requests the Government to supply information on the above systems of hiring introduced for the last harvest (1991-92) and to continue supplying the reports of the relevant inspection services containing data on the effect given in practice to the terms of contracts, the number and type of contraventions reported and the sanctions imposed. The Committee also requests the Government to supply information on the situation regarding hiring in plantations which do not belong to the State Sugar Board (CEA).



In addition, the Committee requests the Government to provide information on the progress made in adopting the Labour Code.

3. Protection by the competent authorities of the rights and freedoms of workers. The Committee 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 information supplied by the Government concerning the registration on 7 May 1991 of the Trade Union of Cane-Cutters of the Barahona Plantation, which is largely composed of Haitian cane-cutters and whose Secretary-General is of Haitian nationality. It also states that some of the officers of the Ozama Plantation Trade Union are of Haitian nationality.

The Committee also requested that measures be taken to set up, in addition, in "bateyes" of the CEA and in private plantations, civil administration structures such as exist in other population centres.

The Committee notes that the division of the national territory is the responsibility of the National Congress and that "bateyes" are located in municipalities in which justices of the peace are responsible for administering justice in relation to civil, penal and labour matters.

The Committee requests the Government to indicate whether other "bateyes", in addition to the Consuelo plantation, have been declared municipal districts and to supply information on any other measure taken to protect the rights of workers and their families in plantations.

#### Ecuador (ratification: 1962)

In earlier comments, the Committee has referred to Decree No. 105 of 7 June 1967, under which sentences of imprisonment of from two to five years can be imposed on any persons who foments, or takes a leading part in, a collective cessation of activity ("paro"). The sentence laid down by the Decree for a person who participates in a cessation of activity ("paro") without fomenting or taking a leading part in it, is correctional imprisonment of from three months to one year. For the purposes of this provision, "there is a cessation of activity ("paro") when a collective cessation of activity, the imposition of a lockout outside the cases permitted by law, the paralysing of ways of communication and similar anti-social acts occur". Sentences of imprisonment involve compulsory labour by virtue of sections 55 and 56 of the Penal Code.

The Committee also referred to section 165 of the Maritime Police Code, which prohibits crew members of an Ecuadorian vessel from disembarking in any port other than the port of embarkation except with the agreement of the master. It also provides that if a crew member deserts he shall forfeit his pay and belongings to the vessel and that if he is captured he shall pay the cost of his arrest and be punished in accordance with the navy regulations in force.

The Committee expressed the hope that measures would be taken concerning these provisions in order to ensure the observance of Article 1(c) and (d) of the Convention. Furthermore, the Committee requested the Government to supply information on the practical application of sections 130, 133, 134, 148, 153, 155 and 367 of the Penal Code to enable it to ascertain the scope of these provisions in the light of Article 1(a) and (c) of the Convention.

The Committee noted with interest that several draft decrees had been prepared with the assistance of representatives of the ILO Director-General in November 1989. Under these draft decrees, Legislative Decree No. 105 is interpreted as inapplicable to strikes or collective labour disputes; section 165 of the Maritime Police Code is repealed; sections 53, 54, 55 and 66 of the Penal Code and section 22 of the Code on the Execution of Sentences and Social Rehabilitation are mandatorily interpreted so that the work of convicted persons in detention and re-education centres shall be voluntary and the profits from this work shall accrue exclusively to the convicted persons.

The Committee notes that on 25 March 1991, the Ministry of Labour and Human Resources submitted the above-mentioned drafts to the President of the National Congress with a view to their being placed on the agenda of Congress.

The Committee hopes that the above drafts will be adopted rapidly to ensure that the Convention is observed with regard to the points raised and that the Government will provide copies of them as soon as they have been adopted.

#### El Salvador (ratification: 1958)

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

1. Article 1(a) of the Convention. In previous comments the Committee has referred to a series of provisions in the Penal Code that allow the imposition of penalties involving compulsory labour under section 49 of the Act concerning the organisation of prisons and rehabilitation centres for activities relating to the expression of political opinion or of opposition to the established system, which is contrary to the provisions of the Convention. The provisions in question are the following:

Section 376, subsections 2 and 3, on associations whose aims are teaching, disseminating or propagating doctrines that are anarchical or contrary to democracy. Section 377, under which imprisonment may be imposed on any person who promotes, establishes, organises or directs sections or branches of foreign organisations or bodies advocating doctrines that are anarchical or contrary to democracy and on those taking part in such sections or branches. Section 378, punishing those who disseminate or propagate doctrines that are anarchical or contrary to democracy. Section 379, concerning the possession of subversive material (printed matter, tapes, photographs or films) for use in the dissemination of the doctrines mentioned in the

preceding section. Section 380, concerning persons who co-operate in subversive propaganda, and section 407, concerning participation in associations that exist for the purpose of committing an offence.

The Committee took note of the promulgation of Decree No. 50 of 24 February 1984 issuing the Act on the criminal procedure applicable on the suspension of constitutional guarantees. It noted that this Act lays down that persons charged with committing offences against the legal personality of the State shall be judged by military courts (sections 373-380), if constitutional guarantees are suspended. The offences laid down in the Code of Military Justice also come within the competence of these courts. The Committee took note of the information supplied by the Government to the effect that forced labour was not imposed on political offenders coming under military jurisdiction. The Committee pointed out, however, that the Act concerning the organisation of prisons did not provide for the exemption from prison labour of those sentenced for political offences.

The Committee requested the Government to provide information on the practical application of Decree No. 50, particularly in respect of the number of sentences pronounced by the military courts under the sections of the Penal Code which have been the subject of comments by the Committee for some years, and to supply a copy of any particularly relevant sentences.

The Committee noted that in its report for the period ending 30 June 1989 the Government stated that the penal legislation did not provide for the imposition of sentences of imprisonment with forced labour.

The Committee observed once again that, when prison sentences imposed for violation of the above sections, all of which concern the expression of political opinions or of opposition to the established system, involve compulsory prison labour (section 49 of the Act concerning the organisation of prisons and rehabilitation centres) they were contrary to the Convention (Article 1(a)) which provides protection against any form of forced labour imposed as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee again expressed the hope that the necessary measures would shortly be taken to ensure observance of the Convention in this respect, and that the Government would report on progress made towards this end.

2. Article 1(c) and (d). In previous comments, the Committee has referred to section 291 of the Penal Code, under which penalties of imprisonment involving compulsory labour may be imposed on any person who, without creating a situation of public danger, prevents, hinders or paralyses the functioning of any class of transport or public utility service and on workers in a public utility undertaking or service who stop or suspend the service without just cause so as to disturb its regular operation.

The Committee asked the Government to take the necessary measures to ensure that penalties involving the obligation to work cannot be imposed as a punishment for having participated in strikes or for breaches of labour discipline.

The Committee noted that the Government's report for the period ending June 1989 did contain information on this matter. The Committee again recalled that provisions imposing restrictions on the peaceful exercise of the right to strike and those referring to labour discipline were contrary to the Convention when they impose penalties involving the obligation to work, and that only strikes in essential services in the strict sense of the term fall outside the scope of the Convention, that is to say, services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee expressed the hope that the Government would take the necessary measures to bring the national legislation into conformity with the Convention and that it would report on progress towards this end.

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

#### Gabon (ratification: 1961)

The Committee notes the Government's report. It also notes the observations by the Gabon Confederation of Free Trade Unions (CGSL) concerning the application of the Convention as well as the Government's reply to these observations, which the Committee examined within the context of the application of Convention No. 29.

Article 1(c) and (d) of the Convention. In the comments that it has been making for many years, the Committee has 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 repeated statement in its report to the effect that the Merchant Shipping Code is currently being revised and that the Committee's comments will be taken into account. The Committee once again hopes that the draft texts that are under examination 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.

#### Guatemala (ratification: 1959)

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

1. Article 1(a), (c) and (d) of the Convention. For several years the Committee has been referring to the provisions of Legislative Decree No. 9 of 10 April 1963, and sections 390, subsection 2, 396, 419 and 430 of the Penal Code, under which sentences of imprisonment involving, by virtue of section 47 of the Penal Code, the obligation to work, can be imposed as a punishment for expressing certain political opinions, as a measure of labour discipline or for participation in strikes.

The Committee noted that as a result of direct contacts in October 1988 between the Government and representatives of the Director-General of the International Labour Office, drafts were prepared to repeal the above provisions.

The Committee noted that, in its report for the period ending June 1989, the Government stated that a draft text to repeal the above provisions was under study.

The Committee trusted that the necessary steps would shortly be taken to bring the national legislation into line with the Convention and that the Government would report progress made to that end.

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

#### Iceland (ratification: 1960)

Article 1(c) and (d) of the Convention. The Committee notes with satisfaction that section 81 of the Seamen's Act, No. 35 of 1985, under which a seaman guilty of insubordination or refusing to obey orders, was liable to imprisonment, was repealed by Act No. 53 of 1990.

#### Iraq (ratification: 1959)

The Committee notes the Government's report, and other documentation sent by it, as well as the discussions in the Conference Committee in 1991 and the Governing Body Committee's June 1991 report on the representation under article 24 of the Constitution relating in particular to Conventions Nos. 29 and 105.

Prison work. 1. In earlier comments, the Committee noted that Law No. 104 of 1981 on the State Organisation for Social Reform governing prison work does not distinguish political from other prisoners. Similarly, the definition of imprisonment in section 87 of the Penal Code provides for compulsory work as laid down in the Penal Institutions Law. The Committee now notes the Government representative's statement in the Conference Committee that the prison work contemplated by Law No. 104 of 1981 is voluntary and governed by the Labour Code: it is said to be a corrective exercise aimed at social rehabilitation, and penal institutions' programmes are said to have changed completely from the time when forced labour was considered part and parcel of the sentence. The Committee also notes similar statements in the report, repeating largely what was said before.

The Committee notes that the obligation to work is laid down in Law No. 104 and the Penal Code as an essential corollary of the prison sentence. It refers to the explanations in paragraphs 102 to 109 of the 1979 General Survey on the Abolition of Forced Labour and the explicit terms of the Convention and recalls that penal sanctions involving the obligation to work are covered by the Convention in cases of punishment for the expression of political opinions or ideological opposition to the political, social or economic system or for breach of labour discipline or participation in strikes.

Article 1(c) and (d). 2. In previous comments, the Committee referred to section 364 of the Penal Code, which provides for imprisonment with an obligation to work in cases where officials or persons with public functions leave their work even after resignation or do not carry out their work when this might endanger the life, health or safety of the population or cause riots or unrest or paralyse a public service. It noted that under Resolution No. 150 of 1987 of the Revolutionary Command Council (RCC) all workers in State service and the socialist sector are public officials.

The Committee refers to the June 1991 report of the Governing Body Committee and notes that under RCC Resolution No. 521 of 7 May 1983 the resignation of Iraqi officials in the State services or the socialist sector or mixed sector may not be accepted in the first ten years of service and is subject to the reimbursement of all training costs before or after the appointment. Officials resigning without the agreement of their department also lose their rights arising from previous service, under Resolution No. 700 of 13 May 1980. Only women may have their resignation accepted unconditionally under Resolution No. 703 of 5 September 1987. Also, under Resolution No. 200 of 12 February 1984 any official or worker in State services or the socialist sector who after written notice does not resume work or exceeds leave by more than three days without a reasonable excuse is subject to imprisonment of from six months to ten years. And under Resolution No. 552 of 28 June 1986 the same applies to all officials or graduates centrally placed who do not accept their posting.

The Committee notes that the Conference Committee noted with regret that sanctions involving compulsory labour are still imposed for breach of labour discipline and participation in strikes. It refers to the explanations in paragraphs 67 and 68 of the 1979 General Survey and observes that provisions preventing workers from leaving their jobs with reasonable notice are also contrary to Convention No. 29, which provides for the abolition of forced or compulsory work.

The Committee notes that the Governing Body Committee concluded in its recommendations that:

- (i) the Government should take the necessary measures to repeal, in so far as they are still in force, the provisions of the Penal Code and the Revolutionary Command Council Resolutions which prevent workers from terminating their employment by giving notice of reasonable length and which provide for penalties involving compulsory labour as a means of labour discipline;



- (ii) pending the repeal of these provisions, the Government should take the necessary measures to enable all workers wishing to terminate their employment relationship, in particular the Egyptian workers wishing to return to their country, to leave their jobs by giving notice of reasonable length and without being liable to sanctions or deprivation of rights accrued from previous service;
- (iii) the Government should communicate, in its reports to be transmitted under article 22 of the Constitution on the application of the present Convention, information on the measures taken or envisaged to give effect to these recommendations in order to enable the supervisory bodies of the ILO to continue the examination of the questions dealt with in this report.

The Committee notes that neither the Government's report on the present Convention nor that on Convention No. 29 contains the information requested. It therefore reiterates the request and asks the Government to supply a full report on the matters mentioned above.

Article 1(d). 3. In earlier comments, the Committee noted that under section 132 of the Labour Code (Act No. 71 of 1987) unresolved labour disputes are referred to the Labour Dispute Chamber of the Court of Cassation, whose judgement is final under section 133. Section 136(I) lays down the workers' right to stop work if the employer refuses to observe the Court's decision and sanctions are imposed on the employer. The Committee noted that this seems to be the only right to strike allowed. It again asks the Government to indicate the sanctions applicable to workers on strike contrary to a section 133 final judgement, viz. in any case other than one falling under section 136.

4. In previous comments, the Committee referred to sections 197(4) and 216 of the Penal Code, under which imprisonment with a work obligation for a fixed term or for life may be imposed in cases where activities are stopped or disrupted in public services or bodies, public utilities, state industrial installations or public establishments of importance to the national economy. The Government indicated in earlier reports that state officials and government establishments had no right to strike; section 197(4) was applied without qualification and made no distinction between essential and non-essential services provided by the undertakings, and the threat of imprisonment for disruption of work was intended to induce the continuation of work by anyone who would otherwise abandon it and thus disrupt the services in question.

The Committee noted that under those Penal Code provisions sanctions involving compulsory prison work were applicable to work stoppages in a large range of activities and industrial installations. It asked the Government to indicate the steps taken or proposed to ensure the application of the Convention on this, for example by restricting the application of those provisions to officials whose functions include the exercise of public authority and employees in essential services interruption of which would endanger the life, personal safety or health of the whole or part of the population.



The Committee again expresses the hope that the Government will re-examine sections 197(1) and (4) and 216 together with section 87 of the Penal Code and will indicate the measures taken or proposed to ensure the Convention is applied.

5. The Committee notes the Government representative's statements in the Conference Committee, that the Government was revising all legislation enacted in exceptional circumstances or approved since 1980 and some from earlier periods. He gave assurances that the amendments would also deal with Penal Code provisions and said that several recent laws and regulations had been enacted, including rules on the state of exception. The Committee hopes the Government will send copies. It hopes the Government will indicate how far the revision exercise has advanced and send any relevant enactments.

The Committee is addressing a request directly to the Government on several other points under Article 1(a), (c) and (d) of the Convention.

[The Government is requested to supply full details to the 79th Session of the Conference and to communicate a report for the period ending 30 June 1992.]

#### Ireland (ratification: 1958)

The Committee notes that no report has been received from the Government. The Committee has however noted the information communicated by the Government to the Conference Committee in 1991.

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.

The Committee notes that in the information communicated to the Conference Committee in 1991, the Government stated that the Merchant Shipping Act, 1894 had recently been reviewed and amendments to it were being considered by the national Parliament. However, because of the great volume of this legislation and the wide range of issues which it covered, it had been necessary for the Department of the Marine, to establish priorities in determining the particular parts of

the Act which should be amended. Accordingly, it had been decided that current changes in the legislation should be confined to questions of passenger safety which were of obvious importance and urgency. It had not therefore, regrettably, been possible, in the context of the current legislative changes, to address the specific provisions in the legislation which were the subject of questions raised by the Committee of Experts. However, these matters would continue to be kept under consideration and every effort would be made by the Government to effect the legislative amendments necessary to respond to the Committees concerns as soon as possible and any relevant future developments would be notified.

The Committee is bound to recall that it has been commenting on the provisions in question since 1963. The Committee also observes that the aforementioned provisions of the 1894 Merchant Shipping Act have already been repealed in a large number of countries where they had been formerly in force.

The Committee trusts that the necessary action will soon be taken to bring the merchant shipping legislation into conformity with the Convention and that the Government will report on the measures taken to this end.

#### Jamaica (ratification: 1962)

Article 1(c) and (d) of the Convention. In comments made for many years, the Committee referred to sections 221 to 224 and 225(1)(b), (c) and (e) of the 1894 United Kingdom Merchant Shipping Act which provide for the punishment of various disciplinary offences with imprisonment (involving an obligation to perform labour) and for the forcible conveyance of seamen on board ship to perform their duties.

The Government previously reported that the questions raised in relation to the Merchant Shipping Act were being studied and that the final draft of a Jamaican Bill on merchant shipping was under review but had not yet been submitted to Parliament.

The Committee notes the Government's indication in its latest report that the first draft of the Bill has been prepared which, it is hoped, will be enacted before the end of the current legislative year.

The Committee hopes that the necessary amendments will soon be adopted and that the Government will report on progress made and provide a copy of the new merchant shipping legislation when enacted.

#### Kenya (ratification: 1964)

In previous comments, the Committee referred, inter alia, to various provisions of the Penal Code, the Public Order Act, the Prohibited Publications Order, 1968, the Merchant Shipping Act, 1967, and the Trade Disputes Act (Cap. 234) under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for the display of emblems or the distribution of publications signifying association with a political object or

political organisation, for various breaches of discipline in the merchant marine and for participation in certain forms of strike.

The Committee notes the Government's renewed statement in its report that discussions continue between the Office of the President, the Attorney-General's Chambers, the Law Reform Commission and the Ministry of Labour regarding the proposals that the Government intends to introduce in order to bring national legislation, and especially the Merchant Shipping Act, into conformity with the provisions of the Convention.

The Committee trusts that the Government will soon be able to report on progress achieved as regards the above-mentioned provisions. The Committee hopes that the Government will provide detailed information on various points raised in a more detailed request which is again being addressed directly to the Government.

#### Liberia (ratification: 1962)

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 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 expressed the hope that the necessary action would 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 referred 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 requested 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 requested 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 addressed 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 observed that the Government's report contained no information in this regard. The Committee noted 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 had not yet been lifted. The Committee requested 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.

#### Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes the Government's report and the discussions that took place at the Conference Committee in 1991.

1. Article 1(a), (c) and (d) of the Convention. In comments it has been making 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 also 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 the interruption of which would not endanger the life, personal safety or health of the whole or part of the population.

The Committee has pointed out in paragraphs 102 to 109 of its General Survey of 1979 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. The Committee has stressed, however, that this same need does not arise in

the case of persons protected by the Convention: in the case of persons punished for having expressed 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.

The Committee notes the information supplied by the Government and, in particular, the reports of the national committee responsible for examining international labour Conventions and Recommendations. According to these reports, although the national committee is not convinced of the need to abolish the obligation to work which, in its opinion, enables prisoners to be reintegrated into the labour market and does not constitute labour, it recommends that the legislation be amended to provide that prisoners may work if they so wish.

The Committee notes that the Government already mentioned a similar reform of the legislation in its report received in 1988, and hopes that the Government will shortly provide information on the legislative amendments adopted to ensure that effect is given to the Convention in this respect.

2. The Committee hopes that the Government will provide copies of the following texts referred to previously: the Green Paper on human rights, 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; all legislative texts concerning the establishment, operation and disbanding of associations and political parties.

#### Mauritius (ratification: 1969)

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 does not endanger the safety of the ship or the life or health of persons. 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 that the Merchant Shipping Act, No. 28 of 28 July 1986, came into operation on 15 January 1991 by virtue of Proclamation No. 1 of 1991.

The Committee has taken note of the text of the new Act communicated by the Government together with its report.

The Committee notes that under section 183(1) (a), (b), (c) and (e) read together with section 184(1) of the Act certain breaches of discipline by seamen (such as desertion, neglect or refusal to join

the ship, absence without leave, neglect of duty) are punishable by imprisonment (involving an obligation to perform labour), and that under section 183(1), (3) and (4) seamen who are not citizens of Mauritius, and who commit such offences, may be conveyed on board ship for the purpose of proceeding to sea.

The Committee notes with regret that the new Merchant Shipping Act has introduced no progress as to the substance of the provisions on which the Committee has been commenting for numerous years, that breaches of discipline continue to be punishable by sentences of imprisonment (involving an obligation to work) even where the offence does not endanger the safety of the ship or the life or health of persons, and that seamen may be forcibly conveyed on board ship to perform their duties.

The Committee requests the Government to indicate the measures taken or envisaged to ensure the observance of the Convention.

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 indication in its report that a special law review committee, set up to examine the aforementioned Act, has not yet finalised this review.

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.

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

#### Morocco (ratification: 1966)

The Committee notes that the Government has not transmitted a report. It also notes that the Government has not responded to the comments made in March 1991 by the Democratic Confederation of Labour (CDT) and the General Union of Moroccan Workers (UGTM) concerning the application of the Convention.

In its previous comments concerning the penalties applicable to public servants in the event of a strike, the Committee noted the information supplied by the Government to the effect that the disciplinary penalties that are applicable are those laid down in section 66 of the Dahir of 24 February 1958, issuing the general terms and conditions of employment of the public service, and that the public servant has the right to appeal to the Administrative Chamber of the Supreme Court. The Committee observed, however, that section 5 of Decree No. 2-57-1465 of 8 February 1958, respecting the exercise of the right to organise by public servants, lays down that "any coordinated stoppage of work, any collective act of indiscipline may

be punished without regard to the guarantees respecting discipline", and it requested the Government to indicate whether sanctions that are different from those provided for in section 66 of the above Dahir may be imposed on public servants.

The Government stated in its report for the period ending 30 June 1990 that the penalties to which public servants are liable are set out limitively in the Dahir of 1958 issuing the general terms and conditions of employment of the public service and that, in practice and to the knowledge of the Ministry of Employment, no sanctions other than those provided for in the above Dahir have ever been imposed on public servants.

The Committee notes that, in their comments, the CDT and the UGTM allege that the Government had recourse to Decree No. 2-57-1465 in order to threaten public servants and employees and oblige them to work during a strike, and that this has occurred on several occasions and particularly during the general strike of 14 December 1990, during which the Government threatened to have recourse to the above Decree, which it applies without taking into account the guarantees relating to disciplinary measures set out in the terms and conditions of employment of the public service. They consider that the Decree does not cover strikes and should not be interpreted as doing so since the Constitution, which was adopted in 1972, postdates the Decree and guarantees the right to strike. They believe that the Decree concerns cases of civil disobedience and bears no relation to strike, which is called on the grounds of specific claims and after notice has been given.

According to the CDT and the UGTM, the fact of having recourse to the above Decree in the event of a strike in the public sector or of a general strike constitutes recourse to forced and compulsory labour. With regard to the Government's statement that the sanctions applied to the public servants were those provided for under section 66 of the terms and conditions of employment of the public service and that they are not subject to judicial appeal, the above organisations consider that this statement is inexact since in the event of strikes, and particularly in 1979 and 1981, the Government arrested teachers and health-care personnel without applying section 66, which requires the opinion of joint committees.

The Committee hopes that the Government will supply information concerning the allegations of the CDT and the UGTM.

[The Government is requested to provide full particulars to the Conference at its 79th Session.]

#### New Zealand (ratification: 1968)

The Committee previously 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 while sections 158, 158A and 160 of the Act were repealed by the Immigration Act (No. 74 of April 1987), the Shipping and Seament Amendment Act (No. 174 of 1987) which entered into force in August 1987 did not amend the other provisions which are in contradiction with the Convention.

The Committee also noted the Government's indication that amendments addressing the issues of concern were intended to be included in the next major amendment of the Act and that in practice the provisions under which disciplinary offences may be punished by imprisonment (involving an obligation to perform labour) were not applied.

The Committee notes the Government's indication in its report that it anticipates the review to be completed and policy recommendations to be made by mid-1992 which would recommend the removal of the forced labour provisions of the 1952 Act with the adoption of an entirely new Act in 1993.

Recalling that it has been commenting on the above-mentioned provisions of the 1952 Shipping and Seamen Act for numerous years, the Committee expresses the firm hope that the Government will soon be able to report on progress made in the adoption of the necessary amendments to bring its legislation into conformity with the Convention.

#### Nigeria (ratification: 1960)

The Committee notes 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 provided by the Government in its report received in 1990 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 noted the adoption in 1989 of a new Constitution which would come into force on 1 October 1992. It also noted 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 noted that the new Constitution provided 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 noted the Government's indication in its report in 1990 that the ban on freedom of association and assembly had 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 noted, 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 hoped that the Government would 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 recalled 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 asked 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 noted 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 had been substituted by periods of six weeks and a Detention of Persons Review Panel had been established. The Committee hoped again that the Government would 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 did 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 noted the Government's statement in an earlier report that the sections in question had been submitted to the

National Advisory Council for necessary review and amendments. The Committee hoped that the Government would soon be in a position to report on measures adopted to ensure that no sanctions which may involve an obligation to perform work were 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 hoped that in this regard too, the necessary measures would be taken to ensure the observance of the Convention, and that the Government would 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 imposed 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 were in progress, were 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 had been submitted to the National Labour Advisory Council for necessary review and amendment, the Committee expressed the hope that necessary action

would soon be taken to ensure the observance of the Convention in this regard and that the Government would indicate the measures taken or contemplated to amend the legislative provisions referred to.

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

Pakistan (ratification: 1960)

The Committee notes the Government's reports of June 1991 and March 1992.

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 Government's statement in its report that imprisonment is not a must and that political persons are simply confined to their residences or detained in jails for a short period; there is no law in the country forcing any person to work and the punishment if any can 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.

As concerns the West Pakistan Press and Publications Ordinance, 1963, the Committee notes the Government's renewed statement in its report that a Bill to amend the Ordinance is before the National Assembly and that it contains no provisions corresponding to sections 23, 24, 27, 28 and 30 of the Ordinance.

The Committee has taken note of Presidential Ordinance No. III of 1990 to regulate matters relating to publications and printing presses promulgated under article 89 of the Constitution. The Committee notes that under section 55 the West Pakistan Press and Publications Ordinance No. XXX of 1963 and the Registration of Printing Press and Publications Ordinance No. XIII of 1989 were repealed. The Committee observes that an Ordinance promulgated under article 89(2) of the

Constitution is required to be laid down before the National Assembly and shall be considered repealed at the expiration of four months from its promulgation if not approved by the Assembly. The Committee requests the Government to provide information on any action by the National Assembly in regard to Ordinance No. III of 1990 and to communicate the text of any law adopted by the Assembly in relation to publication and printing presses.

The Committee expresses the hope that the necessary measures will soon be taken to bring the above-mentioned provisions on security, press and publications and political parties into conformity with the Convention and that the Government will report on progress achieved.

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 Government has previously indicated that a Bill to amend the Industrial Relations Ordinance has been presented to the National Assembly 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 notes that in its latest report the Government merely states that sections 54 and 55 of the Industrial Relations Ordinance are under active consideration for amendment. The Committee expresses the firm hope 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 notes that once more the Government states that a Bill had been introduced in the National Assembly to amend sections 100 to 103 of the Merchant Shipping Act, under which various breaches of labour discipline by seamen may be punished with compulsory labour. The Committee hopes that the amendments will finally 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 requests the Government to provide information on the action taken in this regard.

Article 1(e). 4. In previous comments, the Committee has referred to sections 298B(1) and (2) and 298C of the Penal Code, inserted by the Anti-Islamic Activities of Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, No. XX of 1984, under which any person of these groups who uses Islamic epithets, nomenclature and titles shall be punished with imprisonment of either description for a term which may extend to three years.

The Committee notes the Government's renewed statement in its reports 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.

According to the Government, religious freedom exists as long as the feelings of another religious community are not injured and anyone, regardless of his religious conviction, will be punished for professing his religion in a way that injures the feelings of another community. The provisions of the Penal Code referred to were drafted with a view to ensuring peace and tranquillity, particularly in places of worship. The Committee also notes that the Government reiterates its earlier stand that forced labour as a result of religious discrimination does not exist in Pakistan, that all minorities enjoy all fundamental rights and that courts are free to uphold and safeguard the rights of minorities.

The Committee had taken note of the report presented to the United Nations Human Rights Commission in 1991 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) referring to allegations according to which proceedings were engaged, on the basis of sections 298B and C of the Penal Code, in the districts of Guranwala, Shekhupura, Tharparkar and Attock against a number of persons having used specific greetings.

The Committee notes from the latest report by the Special Rapporteur presented to the Human Rights Commission in 1992 (document E/CN.4/1992/52 of 18 December 1991) the allegations that nine persons were sentenced to two years' imprisonment for acting against Ordinance XX of 1984 in April 1990, that another person was sentenced to one year of imprisonment in 1988 for wearing a badge and that the sentence was upheld by the Court of Appeal. It is also alleged that the Ahmadi daily newspaper has been banned during the past four years and its editor, publisher and printer have been indicted; Ahmadi books and publications have been banned and confiscated. Allegations also refer to the sentencing under section 298B and 298C of the Penal Code of two Ahmadis to several years' imprisonment and a fine of 30,000 rupees (in the case of failure to pay the fine, imprisonment would be extended by 18 months).

The Committee again requests the Government to provide detailed information on the practical application of the provisions of sections

298B and 298C of the Penal Code 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 298C are incompatible with constitutional requirements.

Paraguay (ratification: 1968)

The Committee refers to its observation on the application of Convention No. 29.

Peru (ratification: 1960)

The Committee notes with satisfaction that the new Penal Code (Legislative Decree No. 635 of 25 April 1991) repeals section 44 of the former Penal Code under which, where offences were committed by "savages" the judge could 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".

Poland (ratification: 1958)

The Committee notes with satisfaction that the Act of 23 May 1991 respecting work on board seagoing merchant vessels has repealed the Act of 28 April 1952 respecting work on board Polish seagoing vessels in international navigation, of which certain provisions concerning the discipline of seafarers had been the subject of the Committee's comments.

Rwanda (ratification: 1962)

The Committee notes with interest the new Constitution of 30 March 1991 which guarantees, inter alia, multipartism (section 7) and freedom of association (section 19). The Committee hopes that during any process of revising the legislation, the Government will take into account the Committee's comments concerning a number of provisions to which it refers in a request addressed directly to the Government and that it will supply information on the measures that have been taken or are envisaged to bring the legislation into full conformity with the requirements of the Convention.

Senegal (ratification: 1961)

Articles 1(c) and (d) of the Convention. In its previous comments, the Committee noted that under sections 223 and 243 of the



Merchant Navy Code, seafarers are punished for breaches of labour discipline (absence without leave from the vessel, refusal to obey after formal order) with sentences of imprisonment involving compulsory labour under section 40 of the Penal Code.

The Government stated previously that the authorities have decided to bring the provisions in question into conformity with the Convention during the current revision of the Merchant Navy Code and that, in practice, no sentence of imprisonment has been passed by judges on a seafarer committing a breach of labour discipline.

The Committee notes the Government's repeated statements that the above provisions of the Merchant Navy Code are currently being amended within the framework of the revision of the Merchant Navy Code. Noting that these provisions have been the subject of its comments for many years, the Committee hopes that the Government will soon be able to report the adoption of the necessary amendments to bring the Merchant Navy Code into conformity with the Convention.

Sierra Leone (ratification: 1961)

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

Article 1(a) of the Convention. 1. In comments made for a number of years, the Committee has asked for information on the practical application of sections 24, 32 and 33 of the Public Order Act (concerning public meetings, the publication of false news and seditious offences), including the number of convictions for offences thereunder and particulars of relevant court decisions defining or illustrating the scope of these provisions. The Committee noted from the Government's report received in 1983 that the information requested was being collected. The Committee noted from that report that correspondence had 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 hoped that the information requested would 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, the Committee hoped that copies of the statutory provisions would soon be supplied.

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

Sudan (ratification: 1970)

The Committee notes the Government's statement in its report that the country is now passing through a period of major political and constitutional changes.

It notes that a new state of emergency, extending that of 1987, was proclaimed in 1989; that the provisional Constitution of 1985 has been suspended; and that constitutional regulations are at present being applied pending the promulgation of the permanent Constitution.

Constitutional Decree No. 2 of 1989 *inter alia* declares all political parties dissolved, makes it unlawful to express opposition in any form, prohibits gatherings and strikes, places strict limits on freedom of movement and permits the arrest of any person suspected of endangering political or economic stability.

The Committee also notes that the Act of 1987 on workers' trade unions has been repealed.

1. Offences against the provisions of the Regulations to give effect to the state of emergency of 1989 are subject to the death penalty or to imprisonment for not more than 20 years. Under Chapter IX of the prison regulations, in so far as that legislation is still applicable, imprisonment imposes an obligation to work.

The Committee points out that, under the Convention, the nature and duration of the measures taken in an emergency, such as the suppression of fundamental freedoms and rights, if enforced by sanctions involving compulsory labour, should be strictly limited to what is strictly required in order to cope with real and immediate circumstances endangering the life, safety or health of the population.

The Committee expresses the hope that the Government will take the necessary measures to ensure that the provisions of the Convention and of Convention No. 29, which the Government has also ratified, are duly taken into account in the preparation of all constitutional or legislative provisions. The Committee hopes that the Government will take the necessary measures to ensure that penalties involving compulsory work 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 cannot be imposed, with particular reference to the expression of views by the press, political activities and the right of association and assembly.

The Committee asks the Government to supply full information on all penalties imposed pursuant to the provisions issued during the state of emergency; on all provisions adopted in matters within the scope of a Convention, with particular reference to the expression of views, political activities, and freedom of association and assembly;

and on all measures taken or contemplated to ensure compliance with the Convention in this respect.

2. The Committee notes that Constitutional Decree No. 1 and the Acts in force at the time of suspension of the Constitution remain applicable. It also notes the Government's statement that a Trade Union Dialogue Congress has been held at Khartoum and has considered the question of revising all the laws.

The Committee asks the Government to supply information on the progress of the revision of the laws and to supply the new texts, especially the new labour laws, as soon as they are adopted.

3. In its previous comments, the Committee referred to the Industrial Relations Act of 1976. It noted that participation in strikes was punishable with imprisonment involving compulsory labour whenever the Ministry of Labour decided to submit the dispute to compulsory arbitration. The Committee noted that, under section 17 of the Act, the Minister might, without the consent of the parties to the dispute, whenever he deemed it necessary, refer the dispute to an arbitration tribunal whose award was final and without appeal.

The Committee takes due note of the Government's statement that the Minister is empowered, without the parties' consent, if he deems it necessary - and not if he deems it adequate, as the Committee said in its comment - to submit the dispute to an arbitral body. It also notes that, according to the Government, the term "necessary" covers essential services the interruption of which would endanger the safety and health of the population and there is consequently no conflict between the Article of the Convention and this provision of the Act.

According to the text of the Act itself, however, compulsory arbitration may be deemed "necessary" in a much wider range of circumstances.

The Committee asks the Government to supply the text of every measure taken to limit the system of compulsory arbitration strictly and explicitly to essential services.

The Committee notes further that Constitutional Decree No. 2 of 1989 imposes a prohibition on any strike save by special permission. It asks the Government to specify what authorities can issue such permission and by what procedure. In that connection it points out that, in its General Survey of 1979 on the Abolition of Forced Labour, it holds in paragraph 126 that such a suspension of the right to strike enforced by sanctions involving compulsory work is compatible with the Convention only in so far as it is necessary to cope with cases of force majeure in the strict sense of the term - namely when the existence of the population is endangered - provided that the duration of the prohibition is limited to the period of immediate necessity.

It hopes that the Government will take the necessary measures to ensure compliance with the Convention on this point.

The Committee is addressing a request directly to the Government on various other points.

United Republic of Tanzania (ratification: 1962)

The Committee notes that during the discussion which took place in the Conference Committee in 1991, the Government has indicated that ministerial consultations were progressing towards amending a number of provisions including certain provisions of the Penal Code, the Newspaper Act, the Merchant Shipping Act and the Industrial Court Act, on which the Committee has been commenting for numerous years.

The Committee notes, however, that the Government's report contains no information in this regard.

The Committee recalls that, under article 3 of the Tanzanian Constitution Tanzania has one political party which exercises executive powers over all matters in accordance with the Constitution and the constitution of the party, the Revolutionary Party (Chama Cha Mapinduzi (CCM)) being the only political party.

The Committee has taken note of the information submitted by the Government on the application of the International Covenant on Civil and Political Rights (doc. CCPR/C/42/Add.12 of 26 August 1991), according to which the party has opened up a debate on the desirability or otherwise of continuing with a one-party State. In March 1991, the President set up a Presidential Commission with a mandate to canvas the views of the people with a view to enabling a decision to be made whether to continue with the present system or to change into a multi-party system. The Commission is expected to submit its final report by mid-1992.

The Committee hopes that the Government will provide information on the decisions taken following the findings of the Commission. The Committee trusts that the Government will also provide information on measures taken to bring legislation into conformity with the Convention, and on the provisions adopted on the following matters:

Tanzania mainland

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). The Committee also referred to sections 6, 8, 9(a), 12(i) and (ii), 19 to 21 of the Societies Ordinance (under which administrative authorities enjoy wide discretionary powers to refuse or cancel registration of societies, participation in activities of an unregistered society being punishable by imprisonment, involving an obligation to perform labour).

The Committee referred to the explanations provided in paragraphs 102 to 109 and 138 to 140 of its 1979 General Survey on the Abolition of Forced or Compulsory Labour where it observed that any penal sanctions involving an obligation to perform prison labour are contrary to the Convention when imposed on persons convicted for expressing political views or views opposed to the established political system, or having contravened a widely discretionary administrative decision depriving them of the right to publish their views or suspending or dissolving certain associations.

The Committee again expresses the hope that the Government will provide information on the practical application of these provisions as well as on any measures taken or contemplated with regard to these provisions to ensure that no form of forced or compulsory labour may be imposed in circumstances falling within Article 1(a) of the Convention.

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, 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 coordinated 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 Industrial Court of Tanzania 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).

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. The Committee refers again in a direct request to a number of 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.

#### Thailand (ratification: 1969)

The Committee notes that no report was received from the Government. The Committee has however noted the adoption of the State Enterprise Labour Relations Act of 15 April 1991, referred to in point 6 of the present observation. In the absence of a reply to its previous observation, the Committee must once again raise the following matters:

Article 1(a) of the Convention. 1. The Committee noted previously that penalties of imprisonment may be imposed under sections 4, 5, 6 and 8 of the Anti-Communist Activities Act B.E. 2495 (1952) on anyone who engages in communist activities, or who conducts propaganda or makes any preparation with a view to carrying on communist activities, who is a member of any communist organisation, or who attends any communist meeting unless he can prove that he did so in ignorance of its nature and object. Similarly, under sections 9, 12 and 13 to 17 of the same Act, inserted by the Anti-Communist Activities Act (No. 2) B.E. 2512 (1969), penalties of imprisonment may be imposed on whoever assists any communist organisation or member of such organisation in a variety of ways, who propagates communist ideology or principles leading to the approval of such ideology, or who contravenes restrictions imposed by the Government on movements, activities and liberties of persons in any area classified as a communist infiltration area.

The Committee noted the Government's statement in its report for the period ending June 1988 that the above-mentioned provisions concerned illicit actions and penalties enforced in respect of any person who acts or co-ordinates or supports or joins as a member the communist organisation and that these provisions are designed to maintain the security and safety of the country and people.

The Committee again observed that these provisions were not limited in scope to the punishment of violence or incitement to violence, but may be used as a means of political coercion or as a punishment for holding or expressing, even peacefully, certain political views or views ideologically opposed to the established



political, social or economic system, and are accordingly incompatible with Article 1(a) of the Convention in so far as the penalties provided involve compulsory labour. The Committee expressed the hope that the necessary measures would be adopted in this regard to ensure the observance of the Convention. The Committee examined certain other provisions in relation to Article 1(a) in a request addressed directly to the Government.

Article 1(c). 2. The Committee previously noted that sections 5, 6 and 7 of the Act for the Prevention of Desertion or Undue Absence from Merchant Ships, B.E. 2466 (1923), provided for the forcible conveyance of seamen on board ship to perform their duties.

The Committee had noted the Government's indication that a committee to review seamen's legislation had been established. The Committee again expressed the hope that the repeal of these provisions would be included in the review process and that the Government would report on the action taken.

3. The Committee noted previously that under sections 131 and 133 of the Labour Relations Act, B.E. 2518 (1975), penalties of imprisonment (involving compulsory labour) may be imposed on any employee who, even individually, violates or fails to comply with an agreement on terms of employment or a decision on a labour dispute under sections 18, paragraph (2), 22, paragraph (2), 23 to 25, 29, paragraph (4) or 35(4) of the Labour Relations Act. Referring to the explanations provided in paragraphs 110 to 116 of its 1979 General Survey on the Abolition of Forced Labour, the Committee noted that sections 131 to 133 of the Labour Relations Act were incompatible with the Convention in so far as the scope of sanctions involving compulsory prison labour is not limited to acts and omissions that impair or are liable to endanger the operation of essential services, that is, services whose interruption would endanger the life, the personal safety or the health of the whole or part of the population, or which are committed either in the exercise of functions that are essential to safety or in circumstances where life or health are in danger. The Committee again expressed the hope that the Government would indicate the action taken or contemplated in this regard to ensure the observance of the Convention.

Article 1(d). 4. In its previous comments, the Committee noted that penalties of imprisonment may be imposed for participation in strikes under the following provisions of the Labour Relations Act:

- (a) section 140 read together with section 35(2), if the Minister orders the strikers to return to work as usual, being of the opinion that the strike may cause serious damage to the national economy or may cause hardship to the public or may affect national security or may be contrary to public order;



- (b) section 139 read together with section 34(4), (5) and (6), if the party required to comply with an arbitrator's award under section 25 has complied therewith, if the matter is awaiting the decision of the Labour Relations Committee or a decision has been given by the Minister under section 23(1), (2), (6) or (8) or by the Committee under section 24, or if the matter is awaiting the award of labour disputes arbitrators appointed under section 25.

The Committee noted that the provisions referred to provide for binding awards or ministerial decisions not only where these have been freely accepted by the parties, or where they concern essential services whose interruption would endanger the life, the personal safety or the health of the whole or part of the population, or in cases of force majeure likewise endangering the life, the personal safety or the health of the whole or part of the population, but in a wider range of circumstances where their enforcement with penalties involving compulsory prison labour is contrary to Article 1(d) of the Convention. The Committee requested the Government to indicate the measures taken or envisaged to ensure the observance of the Convention in this regard.

The Committee had noted the Government's indication in its report for the period ending June 1988 that the powers conferred under section 35 have been seldom used; referring also to the explanations provided in paragraphs 129 to 132 of its above-mentioned General Survey, the Committee again expressed the hope that the Government would indicate the measures taken or envisaged to bring legislation in this regard into conformity with the Convention.

5. The Committee previously noted that under section 117 of the Criminal Code participation in any strike with the purpose of changing the laws of the State, coercing the Government or intimidating the people was punishable with imprisonment. While noting the Government's indications on constitutional and procedural guarantees provided for, the Committee, referring to the explanations provided in paragraph 128 of its aforementioned General Survey, again requested the Government to supply information on the practical application of this provision, including the number of sentences to penalties of imprisonment and particulars of relevant court decisions, and on any measures taken or contemplated in this connection to ensure the observance of the Convention.

6. The Committee notes that section 19 of the State Enterprise Labour Relations Act, enacted on 15 April 1991, provides that workers of state enterprises shall not in any case stage a strike or undertake any activity in the nature of a strike. Under section 45 of the Act a person who violates this prohibition may be punished by imprisonment for a term up to one year; this penalty is doubled in the case of a person who "invites, or aids or abets the commission of a strike".

Referring to paragraph 123 of its 1979 General Survey on the Abolition of Forced Labour, the Committee recalls that the imposition of penalties of imprisonment involving compulsory labour would only be compatible with the Convention in the case of essential services in

the strict sense of the term; that means, services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee requests the Government to provide information on the measures taken or envisaged to bring legislation in this regard into conformity with the Convention.

Trinidad and Tobago (ratification: 1963)

Article 1(c) and (d) of the Convention. 1. In previous comments, the Committee noted that the provisions of section 157(1)(a), (b) and (e) of the Shipping Act, 1987 provide for penalties of imprisonment (involving, under rules 255 and 269(3) of the Prisons Rules, compulsory labour) for disobeying lawful commands and are substantially identical to provisions of the Merchant Shipping Act, 1894, which have been the subject of comments by the Committee for many years. While subsection (2) of section 157 of the Shipping Act, 1987 excludes the application of subsection (1) to a lawful strike after the ship has been secured in good safety to the satisfaction of the master and the port authority at a port in Trinidad and Tobago, subsection (1) may still be applied to strikes outside Trinidad and Tobago as well as to breaches of labour discipline which do not endanger the safety of the ship or the life or limb of persons (endangering life or ship is the subject of a specific provision in section 156, which has no bearing on the Convention). Similarly, section 158 of the Shipping Act, 1987 follows section 221 of the 1894 Act in punishing desertion and absence without leave with penalties of imprisonment involving compulsory labour. Finally, section 162 of the 1987 Act still provides for the apprehending and forcible conveyance of deserters on board ship upon the request of the master of the ship, regarding both seamen deserting in Trinidad and Tobago from a ship registered abroad and, by way of reciprocity, seamen deserting in a foreign State from a ship registered in Trinidad and Tobago.

The Committee notes the Government's information in its report that the above-mentioned provisions are currently being examined in consultation with the Minister of Works, Infrastructure and Decentralisation entrusted with the administration and implementation of the Shipping Act, 1987, as well as with the Solicitor-General.

The Committee hopes that the Government will provide information on the outcome of these consultations and on measures taken to bring sections 157(1)(a), (b) and (e), 158 and 162 of the Shipping Act, 1987 into conformity with the Convention. The Committee also hopes that the Government will send, as indicated in its report, the statistical data on the practical application of these provisions.

2. In its previous comments, the Committee referred to section 8(1) of the Trade Disputes and Protection of Property Ordinance, under which penalties involving compulsory labour may be imposed for breach of contract by persons employed in certain public services where the probable consequences would be to deprive the inhabitants, wholly or to a great extent, of such services. The Committee observed that certain of the services mentioned in section 8(1) of the Ordinance (electricity, water, health, sanitary or medical services) are

strictly essential because their interruption could endanger the life, personal safety or health of the whole or part of the population, while in others (namely, railway, tramway, ship or other transport services) only a few posts essential to security might fall under the same category. The Government indicated that no penalties involving compulsory labour had been imposed in the country for the purposes enumerated.

In its latest report the Government indicates that the comments concerning the amendment of the aforementioned section 8(1) have been noted.

The Committee again expresses the hope that the necessary action will soon be taken to bring law into conformity with the Convention on this point as well as with the indicated practice, by ensuring that no penalties involving compulsory labour may be imposed for breaches of contract which are not likely to endanger the life, personal safety or health of the whole or part of the population, and that the Government will indicate the measures taken to this end.

Article 1(d). 3. The Committee has noted in previous comments that under section 69(1)(d) and (2) of the Industrial Relations Act, 1972, teachers in the public service are prohibited from taking part in a strike, subject to penalties of imprisonment involving the obligation to work.

The Committee notes the Government's information in its report that the work of the Committee which was appointed to review all the Service Acts and their relevant regulations is still continuing. The Committee notes in this connection that Draft Regulations to provide for a Code of Conduct for civil servants and for teachers have been prepared.

The Committee hopes that in reviewing the legislation, the Government will take due account of the provisions of the Convention and that it will provide information on measures adopted to bring section 69(1)(d) and (2) of the Industrial Relations Act into conformity with the Convention.

#### Tunisia (ratification: 1959)

Article 1(d) of the Convention. The Committee has been pointing out for many years 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 Labour Code, compulsory labour, where it has not been approved by the central workers' organisation (section 376bis (2); 387 and 388), and where the Government imposes arbitration, considering that a strike might endanger the national interest (sections 384 to 388); similarly, workers may be requisitioned under penalty of imprisonment when a strike is considered to endanger the vital interest of the nation (sections 389 and 390).

The Committee pointed out that recourse to compulsory arbitration and requisitioning, enforced by penalties involving compulsory labour should be limited to essential services whose interruption would endanger the life, personal safety and health of the whole or part of the population, and that penalties involving compulsory labour should

not be imposed for participation in a strike merely because it has or has not been approved by the central workers' organisation.

The Committee notes the information supplied by the Government in its report to the effect that, in the context of the review of the Labour Code, a tripartite cooperation committee was set up in January 1990, inter alia, to examine the Bill to amend the provisions on the settlement of collective labour disputes.

The Committee trusts that the provisions in question will be re-examined in the light of the Convention and that the Government will provide full information on progress made in bringing the legislation into conformity with the Convention on this point.

#### Turkey (ratification: 1961)

The Committee notes the Government's report and the observations made by the Turkish Confederation of Employers' Associations.

Article 1(c) of the Convention. In comments made for a number of years the Committee noted that section 1467 of the Commercial Code (No. 6762 of 29 June 1956) empowers the master of a ship to use force with a view to ensuring the proper running of the vessel and the maintenance of discipline to bring deserting seafarers back on board to perform their duties.

The Government previously stated that the authority granted to masters to this effect is restricted to the case of necessity and that in its view this application is in conformity with paragraph 2(d) of Article 2 of the Forced Labour Convention, 1930 (No. 29) and falls outside the definition of labour discipline in paragraph (c) of Article 1 of Convention No. 105. The Government also indicated that the expression "case of necessity" means that a measure as contemplated in section 1467 would be compulsory only in the event of emergencies (i.e. in cases of danger to the security of the vessel, passengers and the goods on board), and that, if taken, such a measure would be immediately lifted after the completion of the vessel's journey and that bringing back by force a deserting seaman is closely related with the purpose of the proper running of the vessel.

The Committee observed that Article 1(c) of the Convention prohibits without exception the use of any form of forced or compulsory labour as a means of labour discipline, and that in order to remain outside the scope of the Convention, any sanction involving compulsory labour must be limited to acts endangering the safety of the ship or the life or health of persons which need to be strictly defined. Neither these criteria nor those of Article 2(2)(d) of Convention No. 29 are met by the wording of section 1467 of the Commercial Code, which empowers the master to use force for ensuring the proper running of the vessel and the maintenance of discipline. Moreover, the existence of legal remedies is inadequate where the criteria laid down in national law do not meet the standard of the Convention.

The Committee notes that in its latest report the Government refers to the Maritime Labour Act No. 854 of 20 April 1967 which applies to seamen who work under an employment contract on board vessels of 100 gross tons and over, flying the Turkish flag, on seas,

lakes, inland waterways and rivers and to their employers. The Government states that this Act, adopted later than the Commercial Code, has priority as concerns application of the legislation on matters in connection with the Convention. The Government further reiterates its previous views concerning the limitation of the application of the provision of section 1467 to cases of necessity, the legal remedies available and the conformity in its opinion with the provisions of the Convention, views which are shared by the Turkish Confederation of Employers' Association.

The Committee notes that under section 14 of the 1967 Maritime Labour Act the contract of employment of a seaman who fails to return on board ship (or who returns on board ship but refuses to perform his duties) may be terminated by the employer. The Committee notes with interest that the Act does not provide for the forcible return on board ship. The Committee observes that the 1967 Act does not however formally repeal section 1467 of the Commercial Code and that its scope is limited to ships of 100 or more gross tons.

The Committee also takes note of the Government's statement in its report that tripartite meetings are being held with a view to examining possible amendments to the labour legislation and that the Government considers suggesting an amendment on the matter in question in the forthcoming meetings.

The Committee trusts that the Government will indicate action taken either to repeal the powers under section 1467 of the Commercial Code or to limit them to circumstances where the safety of the ship or the life or health of persons are in danger. The Committee hopes that the Government will provide information on measures adopted to this effect.

#### Uganda (ratification: 1963)

The Committee notes the Government's report.

1. The Committee previously noted that by the Proclamation of 26 January 1986 all legislative powers referred to in the Constitution were vested in the National Resistance Council and several chapters of the Constitution were suspended, or considered void if inconsistent with the Proclamation; that the operation of the Constitution and the existing laws are construed with such modifications, qualifications and adaptations as necessary to bring them into conformity with the Proclamation. The Committee notes that under Legal Notice No. 1 of 1986 (Amendments) (No. 2) Statute, 1989, the National Resistance Council shall continue in existence for a period of five years from 25 January 1990.

The Committee hopes that the Government will provide information on any measures adopted in relation to Chapter III of the Constitution (protection of fundamental rights and freedoms of the individual), in particular as regards articles 17 and 18 (protection of freedom of expression, of assembly and association), as well as in relation to the suspension of activities of political parties and on any penalties involved.

2. In previous comments the Committee noted that the Public Order and Security Act, empowering the executive to restrict,



independently of the commission of any offence, an individual's association or communication with others, subject to penalties involving compulsory labour appeared to have been repealed. The Committee again requests the Government to indicate whether this Act has actually been repealed and to supply a copy of any text adopted to this effect. The Committee had also referred to measures to be taken to repeal or amend section 21A of the Newspaper and Publications Act (inserted by Decree No. 35 of 1972) under which the publication of any newspaper may be prohibited if the competent minister considers it to be in the public interest to do so and which is enforceable with imprisonment (involving an obligation to perform labour). The Committee hopes that the necessary measures will soon be taken and, pending their adoption, it again requests the Government to supply details on all cases in which prohibitions are made or maintained in application of these provisions.

3. In its previous comments, the Committee noted that sections 54(2)(c), 55, 56 and 56A of the Penal Code empower the competent minister to declare any combination of two or more persons to be an unlawful society (a power exercised in respect of various political, religious and student organisations by Statutory Instruments Nos. 12 of 1968, 153 of 1972 and 63 of 1973) and thus render any speech, publication or activity on behalf of or in support of any such association illegal and punishable with imprisonment (involving an obligation to perform labour). The Committee also noted that a number of orders made under these provisions between 1975 and 1977 were revoked by the Penal Code (Unlawful Society) (Revocation) Order, 1979, but that sections 54(2)(c), 55, 56 and 56A of the Penal Code appeared to remain in force.

The Committee notes that by Statutory Instrument No. 15 of 1991 a society was declared unlawful under section 54(2) of the Penal Code. The Committee requests the Government to provide details on this case and any other cases of prohibition as well as on the measures adopted regarding the above provisions to ensure the observance of the Convention on this point.

4. Article 1(c) and (d). In previous comments the Committee noted that, under section 16(a) of the Trade Disputes (Arbitration and Settlement) Act, 1964, workers employed in "essential services" may be prohibited from terminating their contract of service, even by notice, that, by virtue of sections 16, 17 and 20A of the same Act, strikes may be prohibited in various services which, while including those generally recognised as essential ones, also extend to other services, interruption of which would not necessarily endanger the life, personal safety or health of the whole or part of the population and that contravention of these prohibitions may be punished with imprisonment (involving, as previously noted, an obligation to perform work). The Committee notes that the process to review the law is still under way. The Committee hopes that the Government will soon be able to indicate measures taken to bring sections 16, 17 and 20A of the Trade Disputes (Arbitration and Settlement) Act, 1964, into conformity with the Convention.

Zambia (ratification: 1965)

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

Article 1(a) of the Convention. 1. Further to its previous comments the Committee notes with satisfaction that article 4 of the 1973 Constitution, which prohibited political activities outside the constitutionally recognised party, was repealed by Act No. 20 of 1990.

The Committee notes with interest that a new Constitution was adopted in August 1991 which guarantees freedom of expression, assembly and association, in particular the right to form or belong to any political party, and provides for protection from forced labour (Act No. 1 of 1991 assented 24 August 1991). The Committee notes that National Assembly general elections and Presidential elections were held in October 1991 and the first session of the new Parliament convened in November 1991.

The Committee also notes with interest that the formal state of emergency in existence since 1964 expired on 8 November 1991 in accordance with the new Constitution.

Article 1(c) and (d). 2. In previous comments the Committee referred to certain restrictive provisions of the 1971 Industrial Relations Act in relation to strike, under which a person participating in strikes considered as illegal could be punished by imprisonment (involving under section 75 of the Prisons Act an obligation to perform labour).

The Committee notes that the aforementioned Act was repealed by the Industrial Relations Act No. 36 of 1990, of which certain sections have come into operation.

The Committee notes with interest that the definition of essential services contained in section 127(9) and (10) of the Industrial Relations Act is limited to services where any strike or threatened strike "would pose an immediate and real danger to life, personal safety or the health of the whole or part of the population" and that, beyond a range of a certain number of essential services enumerated in the Act, the Minister must apply to the Court for a declaration that any other service comes under the above definition.

The Committee notes that complaints by several trade unions were submitted to the ILO in March, May, June and September in relation to certain provisions of the Act concerning other matters. In communications of November 1991 and January 1992 the Government states that a thorough review of the Industrial Relations Act 1990 is being carried out through tripartite consultative meetings which will result in a number of amendments to the Act (Committee on Freedom of Association, 281st Report, paragraph 9, approved by the Governing Body at its 252nd Session, March 1992).

The Committee requests the Government to provide information on developments in this regard.

3. 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 previously noted that a Draft Bill prepared by the Government omitted the forcible return on board ship of deserting seafarers and that a suggestion had been formulated by a direct contacts mission in 1989 to bring the clauses of the Bill dealing with disciplinary offences into conformity with the Convention.

The Committee notes the Government's information in its report that it is continuing its work on satisfying the procedural requirements for presentation to Parliament of the new Bill. 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.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Argentina, Bahamas, Bangladesh, Barbados, Belize, Benin, Brazil, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Costa Rica, Cuba, Dominica, El Salvador, Gabon, Grenada, Guinea-Bissau, Iraq, Jordan, Kenya, Liberia, Morocco, Mozambique, Nigeria, Pakistan, Panama, Papua New Guinea, Peru, Rwanda, Senegal, Seychelles, Spain, Somalia, Sudan, United Republic of Tanzania, Thailand, Tunisia, Uruguay, Zambia.

### Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Colombia (ratification: 1969)

Article 8, paragraph 3, of the Convention. In comments that it has been making since 1973, the Committee has been drawing the Government's attention to the fact that section 180 of the Labour Code is not in conformity with the Convention, in that it permits persons working exceptionally on the weekly rest day to choose between compensatory rest and compensatory payment.

The Committee notes that Law 50 of 1990 amends the Labour Code and modifies section 180. It notes however, that this modification obliges employers to give a compensatory weekly rest day only where a person works a shift on a Sunday (when it would otherwise be the weekly day of rest) in an establishment which operates continuous shifts; otherwise, those working exceptionally on the weekly rest day may still have either compensatory rest or compensatory payment.

The Committee recalls that, under the Convention, where temporary exemptions to weekly rest requirements are granted, compensatory rest should be given in all cases to workers covered by the Convention. It regrets to observe that the longstanding difficulty upon which it has been commenting seems to persist in the new legislation. The

Committee hopes the Government will indicate what action is envisaged to remedy this problem.

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

Islamic Republic of Iran (ratification: 1968)

Article 8, paragraph 3, of the Convention. Further to its previous comments, the Committee notes with satisfaction that the 1990 Labour Code provides in section 62 for a day of weekly rest for all workers, including those who exceptionally work on the usual day of rest.

Kuwait (ratification: 1961)

Article 2 of the Convention. The Committee notes the general information provided in the Government's report. For many years, the Committee has been drawing the Government's attention to the need to adopt provisions to guarantee a weekly rest period of 24 consecutive hours for workers covered by the Convention but excluded from the Labour Law (Private Sector) of 1964, namely temporary workers employed for a period of less than six months and workers in enterprises employing fewer than five persons. The Committee notes that, despite the assurances given on several occasions by the Government, no progress has apparently been made in this respect. The Committee once again expresses the hope that the Government will take the necessary measures.

[The Government is asked to supply full particulars to the Conference at its 79th Session.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Brazil, Bulgaria, France, Islamic Republic of Iran, Italy, Jordan, Lebanon, Peru.

**Convention No. 107: Indigenous and Tribal Populations, 1957**

General observation

The Committee notes that 1993 has been declared the International Year for the World's Indigenous People, by General Assembly resolution 45/164 of 18 December 1990, and proclaimed as its theme "Indigenous People - a new partnership". It welcomes this initiative, as well as the decision of the Governing Body of the International Labour Office, at its 252nd Session (March 1992) to endorse the objectives of the International Year.

The Committee also notes that the General Assembly, in resolution 46/128 of 17 December 1991, designated the Under-Secretary-General for Human Rights as the Coordinator of the International Year, in conjunction with the International Labour Organisation. It has been informed of the planning undertaken for the International Year, and encourages governments and international organisations to make every effort to make the Year a success.

The Committee also notes with satisfaction the entry into force on 5 September 1991 of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which revises Convention No. 107. It notes that the first reports from ratifying States on its implementation will be examined by the Committee at its next session, during the International Year. It notes that Convention No. 169 is more oriented towards respect for and protection of indigenous and tribal peoples' cultures, ways of life and traditional institutions than is Convention No. 107. It encourages governments which have ratified Convention No. 107 to give serious consideration to ratifying Convention No. 169.

#### Colombia (ratification: 1969)

The Committee notes with interest that the Government has ratified Convention No. 169, and that Convention No. 107 has therefore automatically been denounced. It also notes with satisfaction the adoption of the new Constitution, which contains provisions that give constitutional force to a series of rights of the indigenous communities in the country and their members.

The Committee also notes the conclusions and recommendations of the technical seminar held in May 1991 relating to the ratification of Convention No. 169, with the participation of representatives of the Government, of indigenous peoples and the ILO. It also notes that a series of recommendations relating to general policy in this respect were adopted at the above seminar. These recommendations envisaged, *inter alia*, the commencement of a process of consultation and collaboration with the indigenous communities with a view to establishing the necessary machinery for the collaboration, support and coordination of the various bodies that are active in matters relating to indigenous populations.

The Committee requests the Government, when preparing its first report on Convention No. 169, to take into consideration the comments that are being addressed directly to it in relation to Convention No. 107 and to supply information on the measures that have been adopted to give effect to the recommendations made at the above seminar.

#### Panama (ratification: 1971)

The Committee wishes once again to take special note of the Government's attention to resolving problems which arise between the indigenous populations of the country and other citizens, in a spirit of dialogue and negotiation. It notes with satisfaction the improvements made in this regard in one region following its 1987 comments. The Committee refers in particular to the detailed

information provided on the involvement of indigenous and tribal communities in discussions concerning economic development in the areas in which they live. This does not mean that no problems arise, but it does indicate that they are approached in a spirit of cooperation.

The Committee wishes to draw the attention of all governments whose countries include indigenous and tribal populations to the approach taken in Panama.

At the same time, the Committee notes that there is a wide variety of institutions, including a number of ministries and their subsidiary bodies, working in this field. Recalling the requirement of Article 2 of the Convention that "Governments shall have the primary responsibility for developing coordinated and systematic action" in this regard, the Committee hopes that it will be possible to ensure that this principle is applied.

The Committee is also raising a number of questions in more detailed comments addressed directly to the Government.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Colombia, Ecuador, El Salvador, Panama, Peru, Syrian Arab Republic.

### Convention No. 108: Seafarers' Identity Documents, 1958

#### Liberia (ratification: 1981)

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

Article 4, paragraph 3, subparagraphs (b), (c), (d) and (f), of the Convention. The Committee recalls that the seamen's identity and service document appears to contain no provision for the information required under the terms of this Article (date and place of birth, nationality, physical characteristics and, in the absence of signature, a thumbprint). It hopes that it will be possible to add these particulars.

Articles 5 and 6. Further to its earlier comments, the Committee has noted with interest the direct contacts which took place in May 1989 between the representatives of the ILO Director-General and the government authorities concerned. It hopes that, as the Government has indicated, the application of Article 5 will be ensured by the provisions of the new labour law which has already been approved by the House of Representatives and is awaiting approval by the Senate. It hopes that the provisions of Article 6 will also be taken into account.

\* \* \*

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

### Convention No. 111: Discrimination (Employment and Occupation), 1958

#### Algeria (ratification: 1969)

1. The Committee notes the adoption of Act No. 90-11, of 21 April 1990, respecting labour relations, which repeals certain texts (including Decree No. 85-59 of 1985 to establish model conditions of service of workers in public institutions and administrations, and Act No. 78-12 of 1978 to establish the general conditions of employment of workers), which had been the subject of its previous comments as regards workers' political obligations.

The Committee notes with interest that, in accordance with section 17, which is contained in Title III, Chapter II: Conditions and Procedure for Recruitment, of Act No. 90-11, any provision drawn up as part of a collective agreement or contract of employment of such a nature as to discriminate in any way between workers on grounds including political belief shall be null and void.

2. With reference to its previous comments, the Committee once again hopes that measures will be taken to make formal reference to religion among the grounds upon which it is prohibited to discriminate in respect of employment and occupation.

3. The Committee also notes that section 17 of Act No. 90-11 is intended to prohibit any provision drawn up as part of a collective agreement or contract of employment that is of such a nature as to discriminate during recruitment. It hopes that the Government will take the necessary measures to ensure that any discriminatory practice, under the terms of the Convention, is also eliminated between workers during the course of employment, in respect of both terms and conditions of employment and the termination of the employment relationship.

#### Angola (ratification: 1976)

1. With reference to its previous direct requests, the Committee has noted with interest Act No. 12/91 of 6 May 1991 to revise the Constitution, which guarantees political pluralism, freedom of opinion and expression, freedom of religion and worship and freedom of association. The Committee has also noted with interest Decree No. 24/91 of 5 July 1991 laying down the general principles of career organisation in the public service; Decree No. 25/91 of 5 July 1991 establishing the legal employment relationship in the public administration; Decree No. 33/91 of 26 July 1991 on the disciplinary rules governing public servants and agents of the public administration; and Joint Executive Decree No. 42/91 of 26 July 1991 to regulate applications for admission to organs of the public administration, which impose no conditions or restrictions relating to

political opinion on admission to or career progress in the public service.

2. The Committee notes, however, that section 21 of Act No. 12/91 of 6 May 1991, which states that all citizens are equal before the law and enjoy the same rights and duties without distinction as to colour, race, ethnic origin, sex, place of birth, religion, educational level or economic and social status, makes no reference to political opinion. The Committee points out that it has already drawn attention to this omission from section 8 of the Constitutional Act of 1975 and section 2 of the General Labour Act, and that the Government stated in 1985 that the Committee's comments had been brought to the attention of the People's Assembly. The Committee therefore hopes that the Government will be able to take the necessary measures to include in the national law provisions prohibiting any discrimination in employment on the basis of political opinion and that it will indicate the measures taken or contemplated to that end.

3. In its previous request, the Committee noted that section 65(e) of Decree No. 17/89 of 13 May 1989 issuing the statutes of the Agostinho Neto University included among the functions and powers conferred on the University Council of Agostinho Neto University that of aiming to ensure the political and ideological training of university administrative staff and graduates. It noted that section 20 of Decree No. 37/89 of 22 July 1989 to approve the regulations governing postgraduate courses provided that candidates for admission to higher education courses abroad must be selected by the Executives' Division of the Central Committee of the Labour Party. The Committee noted further that section 30 of Decree No. 55/89 of 20 September 1989 to approve the rules governing the teaching staff of the University provided that the duties of teachers should include assisting students in their political and ideological training. The Committee notes the Government's statement that comprehensive and substantial reforms are in progress concerning, in particular, the education sector. It notes with interest that section 18 of Decree No. 37/89 of 22 July 1989 has been amended by Decree No. 28/91 of 5 July 1991 and that candidates for higher education courses abroad will henceforth be chosen by the Ministry of Education. The Committee reiterates the hope that, in the process of this comprehensive reform of education, the Government will take the necessary measures to eliminate any discrimination on the basis of the criteria spelt out in Article 1, paragraph 1(a), of the Convention, and in particular of political opinion so far as access to education and training is concerned. It asks the Government to keep it informed of the progress made in that field.

#### Argentina (ratification: 1968)

In earlier comments, the Committee has referred 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 the Government's statement that so far there has been no change and that the situation regarding Act No. 22140 of 1980 concerning the basic terms and conditions of employment in the public service is the same.

The Committee recalls that in its last report, the Government stated that the above sections of the Act were to be considered as having been tacitly repealed by virtue of the adoption of Act No. 32592 of 3 August 1988 concerning discrimination, and that the Public Administration Secretariat was in the process of conducting an analytical study of Act No. 22140 with a view to preparing a new law on the public service.

The Committee again expresses the hope that, to avoid all uncertainty, sections 8(g) and 33(g) of Act No. 22140 will be explicitly repealed and trusts that the Government will do its utmost to ensure that the adoption of the necessary measures is delayed no further.

#### Austria (ratification: 1973)

1. Further to its previous comments, the Committee notes with interest the amendment of the Equality of Treatment Act by the Federal Act of 27 June 1990, BGBl No. 410, which, inter alia, expands the equality of treatment requirement and improves enforcement through the following provisions:

- the extension of the equality of treatment requirement to all aspects of employment, in particular to the commencement of employment, promotion and career advancement and the termination of employment;
- the stipulation that the equality of treatment requirement must be observed in the fixing of remuneration under collective bargaining agreements: such agreements should not provide for criteria for the evaluation of women's and men's work in such a way as to lead to discrimination;
- the establishment of compensation regulations to cover infringements of the equality of treatment requirement;
- the introduction of a special regulation regarding the burden of proof to the advantage of the complainant: workers or applicants for posts need only present prima facie evidence of discrimination and need not prove discrimination;
- the introduction of the possibility of "positive action" through special temporary measures to accelerate the realisation of de facto equality of treatment for men and women;
- the establishment within the Equality of Treatment Committee of the Office of Ombudswoman for Equality of Treatment Questions from whom women can seek advice; and
- the introduction of a requirement for the Minister of Labour and Social Affairs to report to the National Assembly.

The Committee requests the Government to report on the impact of these new provisions on the promotion of equality of opportunity and treatment between men and women and to provide information on the measures taken to implement them, including the adoption of positive action measures and the work of the ombudswoman.



2. According to the Government, the above-mentioned provisions represent mandatory principles for agricultural and forestry workers in respect of which the individual federal Länder may issue enforcement laws. The Committee notes with interest from the information in the Government's report that an amendment to the Ordinance concerning agricultural labour of 1985, LGB1 No. 11/1986, in the region of the Tyrol has introduced a comprehensive set of regulations for the prevention of discrimination between men and women employed in agriculture and forestry.

The Committee requests the Government to furnish information on the measures taken in the other federal Länder.

3. The Committee notes with interest the adoption of the Parental Leave Act, Federal Act of 12 December 1989, BGB1 No. 651, which allows each parent the possibility of claiming unpaid leave and receiving an allowance up until the end of the child's first year (second year if the child is born after 30 June 1990). It takes note of the Government's statement that this Act has positive effects on the employment of women by offering men the chance to look after their children from the beginning.

4. The Committee is addressing a request on other matters directly to the Government.

#### Brazil (ratification: 1965)

The Committee notes that the Government's last report contains no reply to the points raised in its previous direct request and only indicates that there is no discrimination in employment and occupation in the country, quoting the provisions of the national legislation. As regards Article 3(b) of the Convention, the Government states that educational campaigns against discrimination in employment and occupation are pointless as Brazil is a country where discriminatory policies, whatever their nature, meet with no response. With regard to Article 3(c), it states that there is no need to change the legislation in force for the Convention to be observed. With regard to Article 3(f), it states that no distinction, exclusion or preference is made in Brazil and that there is therefore no need to collect statistics, etc. in this respect.

The Committee observes that a State which ratifies the Convention undertakes not only to ensure that national legislation is in conformity with the Convention, but also, under Article 3, to promote such educational programmes as may be calculated to secure the acceptance and observance of the national policy to promote equality of opportunity and treatment (paragraph (b)), to pursue this policy in respect of employment under its control and in the activities of vocational guidance and placement services under the direction of a national authority (paragraphs (d) and (e)), and to indicate in its annual reports the action taken in pursuance of the policy and the results secured (f). In other words, it must pursue an active policy and take practical measures to ensure equality of treatment in the employment and activity under its control, and to promote it in respect of other employment and activities.

As regards the conformity of the national legislation with the Convention, the Committee recalls that in its previous comments it drew attention to the need to repeal expressly only that paragraph of section 482 of the Labour Code, concerning the dismissal of a worker for the perpetration, duly proved by administrative inquiry, of acts endangering national security, and requested information on the progress of a Bill to repeal Act No. 7170 of 14 December 1983 defining crimes against national security.

With regard to national practice, the Committee recalls that in earlier comments, it referred to a study by the Brazilian Institute of Geography and Statistics, which revealed that Blacks and Mulattos are paid less than Whites in all occupational categories and that their level of education was also clearly lower. It also noted a project in the Ministry of Labour's Programme of Action for 1987, to examine the institutional mechanisms of discrimination in the labour market.

The Committee trusts that in its next report the Government will provide the information requested in the direct request of 1990. It would also be grateful if the Government would provide detailed information, in accordance with the report form for the Convention, on the actual situation regarding vocational training, employment and occupation of persons defined according to the criteria set out in Article 1, paragraph 1(a), of the Convention, particularly colour and sex, and describe the results of measures taken in pursuance of the national policy of equality of opportunity and treatment, and supply any information available (such as reports, studies, statistics, etc.) showing any changes which may have occurred in regard to the vocational training, employment and conditions of employment, in the various branches of activity and at various occupational levels, of the persons defined according to the above criteria.

#### Bulgaria (ratification: 1961)

The Committee notes the report of the Government and the information supplied in reply to its previous comments.

#### Constitutional and legislative provisions concerning discrimination in employment and occupation

1. Further to its previous comments, the Committee notes with satisfaction that under article 6 of the Constitution, adopted on 12 July 1991, all persons are born free and equal in dignity and rights; that citizens are equal before the law; and that there shall be no privileges or restriction of rights on the grounds of race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status, thus covering the grounds of discrimination listed in Article 1, paragraph 1(a), of the Convention, including political opinion and national extraction.

2. The Committee notes with interest that the Labour Code Amendment Bill revising the 1987 Labour Code has been introduced in the national Parliament and that, according to the Government, it

prohibits discrimination in employment and occupation on the grounds listed in the Convention. The Committee recalls that section 8(3) of the 1987 Labour Code does not mention "political opinion" and "national extraction" among the grounds on which no distinction, privilege or restriction is allowed, and hopes that the Government will be able to report in the near future that the Labour Code has been amended in accordance with Article 1, paragraph 1(a), of the Convention. The Committee also notes from the Government's report that the Bill revising the 1987 Labour Code takes into account other concerns raised by the Committee in its previous direct requests. The Committee's comments on these draft revisions, as well as on other provisions in the Labour Code, are contained in a request addressed directly to the Government.

Measures directed at improving the  
position of the minority of Turkish origin

3. With reference to its previous observations concerning measures aimed at suppressing the cultural identity of the minority of Turkish origin in Bulgaria - particularly the compulsory change of names and the prohibition of using the Turkish language, which had been the subject of 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 - the Committee recalls that in 1990 and 1991, it had taken note of various measures, including: the adoption of a decision by the Council of State and the Council of Ministers and a statement by the National Assembly to put an end to the above-mentioned violations of the principle of equality; and the adoption of various acts and programmes to enable persons who had suffered discrimination as a result of this earlier policy to obtain redress. The Committee had asked the Government to provide further information on the implementation of the new policies and measures and on the results achieved.

4. The Committee thus notes with interest the adoption of the following provisions in the new Constitution which would promote equality for minorities in Bulgaria, particularly those of Turkish extraction: article 36(2) provides that citizens whose mother tongue is not Bulgarian have the right to study and use their own language alongside the compulsory study of the Bulgarian language; and article 37 provides that freedom of conscience, freedom of thought and the choice of religion and religious or atheistic views shall be inviolable and that the State shall assist the maintenance of tolerance and respect among the believers from different denominations and among believers and non-believers. The Committee also notes with interest the adoption of the National Education Act of 18 October 1991 and the Council of Ministers Decree No. 232 of 29 November 1991 on mother tongue study in the municipal schools, which provide for the right to study one's mother tongue outside state schools and, on a test basis, as an optional subject inside municipal schools in ethnically mixed communities during the school year 1991-1992. The Committee would be grateful if the Government would supply information on the evaluation of the optional mother tongue courses, including

statistics on the number of students involved, its continuation and extension to languages other than Turkish and to indicate other measures taken to overcome the problems of low educational levels in the Turkish communities.

5. The Committee notes with interest the establishment by Parliament, in 1991, of a Human Rights and Ethnic Issues Committee. It requests the Government to provide further details on the composition of this body, its mandate and any recommendations or other measures which have been proposed or taken by it in the field of the Convention.

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 notes with satisfaction that the 517 persons referred to in its previous observation, who were rehabilitated under National Assembly Committee Decision No. 8, have been reinstated in their former employment.

7. The Committee notes with interest the adoption of the Political and Civil Rehabilitation of Repressed Persons Act, on 25 June 1991, which restores the rights of persons who have been wrongfully repressed on account of their origin, political and religious convictions between 12 September 1944 and 10 November 1989, including those repressed in connection with the compulsory changes of name. The Act envisages a once-and-for-all compensation payment for the property and non-property damages inflicted, the amount of the compensation and the procedures whereby it is determined lying within the competence of the Council of Ministers. The Committee requests the Government to indicate in its next report whether calculation of the amount envisaged to be paid under this law covers compensation for losses incurred in employment or occupation. It also requests the Government to indicate the measures which have been taken or are contemplated to ensure that such persons who were dismissed from their employment or occupation are reinstated in their former employment or occupation and that their rights arising therefrom are recognised.

8. With regard to the measures taken to assist persons of Turkish origin, who returned to Bulgaria after having left the country as a result of the earlier policy, the Committee recalls that more than 220,000 of such persons who had left the country had returned between June 1989 and June 1990 facing major problems of housing, education and employment. It further recalls that the Government had adopted Order No. 29 of 9 April 1990 to attempt to solve the social problems of the returnees, including provisions for returning citizens to repurchase their former houses and measures of assistance in education. However, according to the Government's report, the measures adopted earlier did not lead to the expected results in securing the full and fair restoration of the status quo ante. The Committee thus welcomes the new initiative taken by the Government in the adoption of Decree No. 170 of 30 August 1991 on the solution of the social problems in some regions of the country. This Decree provides for the restitution of the real estates which those people were forced to sell and to rehouse those repatriated whose homes were destroyed or sold. It also provides for compensation in price differences due to the liberalisation of prices and for special interest rates for housing loans. With regard to compensation, it

provides for six months of compensation for those workers who applied to leave the country in May-September 1989, whose contracts of employment had been terminated and who are registered as unemployed but not receiving compensation pursuant to other laws. The Committee requests the Government to keep it informed of the implementation of this new Decree and the results achieved.

9. In this connection, the establishment by the Council of Ministers of an ad hoc commission under the Minister of Justice to settle the social problems of Bulgarian citizens who emigrated to Turkey in 1989 but subsequently returned to Bulgaria is noted. The Committee asks the Government to provide further details on the composition of this body and its work in relation to the application of the Convention.

10. With respect to the employment problems faced by the returnees, the Committee notes that no specific information was provided on any efforts directed to assist these persons in finding employment. The Committee recalls that the Government had previously indicated that employment of the returnees was being dealt with on an individual case basis, and that employment placement offices had been established throughout the country. The Committee would be grateful if the Government would provide any available information on the situation concerning the return to work of these persons including assistance measures taken or contemplated and the results achieved. In this respect the Committee refers to its comments below.

#### General measures to promote equality

11. In reply to the Committee's previous comment concerning measures taken in general to promote equality of opportunity and treatment in employment for persons of Turkish extraction, the Government reports that the high rate of unemployment in Bulgaria affects the entire population, and that in some mixed population areas, including those populated by ethnic Turks, Bulgarian Mohammedans and Gypsies, unemployment is even higher and will keep rising at a high rate due to the economic need for structural readjustment. The Government also details other aggravating factors which compound the high rates of unemployment in those areas. The Committee notes this information with concern and requests the Government to continue to provide information on measures taken or contemplated to ensure that persons belonging to a particular group, as defined by one of the grounds listed in Article 1, paragraph 1(a), of the Convention, do not bear a disproportional share of the burden of unemployment during the transition to a market economy. In this respect, the Committee notes with interest from information submitted by the Government's representative to the UN Committee on the Elimination of Racial Discrimination 1991, (CERD/C/SR:918) that precise data on the country's demographic composition would be obtained from a new national census scheduled for December 1991 to replace the former census which had not contained a breakdown on ethnic, linguistic or religious bases. The Committee also notes with interest the projects in the field of employment which are being undertaken in the country with the assistance of the International Labour Office as well as the Government's statement in its report that

it hopes for active cooperation with the Office on the questions of equal rights and the prevention of discrimination against particular groups which are vulnerable under the new conditions. The Committee hopes these activities will assist the Government in formulating for the most vulnerable groups policies which are non-discriminatory and which promote equality in accordance with Articles 2 and 3 of the Convention.

12. The Committee requests the Government to provide information on measures taken or contemplated to promote equality of opportunity and treatment for particularly vulnerable groups of workers including racial, ethnic and religious minorities as well as women, 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 cooperation 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.

#### Burkina Faso (ratification: 1962)

Further to its previous comments, the Committee notes with satisfaction Zatu No. AN VI-0008/FP/TRAV of 26 October 1988, issuing the general conditions of employment of the public service, which repeals Zatu No. AN IV-0011bis/CNR/TRAV of 25 October 1986, sections 5, 51 and 61 of which referred to criteria of political engagement which were incompatible with the provisions of the Convention.

#### Canada (ratification: 1964)

The Committee notes with interest the repeal, on 23 June 1987, of the British Columbia Public Sector Restraint Act of 1983 which, as the Committee had noted in previous comments, provided for circumstances justifying termination of the employment relationship which were so widely defined that enforcement of the Act did not appear to offer substantial protection against discrimination, as defined in the Convention.

With regard to the provisions of the British Columbia Human Rights Act, 1984, which had been the subject of previous comments (concerning the replacement of a general prohibition of discrimination on any grounds unless reasonable cause was shown, by a detailed enumeration of grounds upon which discrimination is prohibited), the Committee requests the Government to continue to supply detailed information on the practical application of the British Columbia Human Rights Act, 1984, and in particular of section 13(1)(b) of the Act.



The Committee is raising other points in a request addressed directly to the Government.

Chile (ratification: 1971)

1. The Committee has taken note of the communication dated 31 May 1991 from the Comando de Exonerados de Chile concerning dismissal from employment on political grounds under the military dictatorship, whereby thousands of workers from various public and private agencies and undertakings were discharged, persecuted, subjected to administrative investigation or accused of offences which they had not committed or of conduct not their own. The Committee has taken note of the detailed information given in the Government's reply dated 15 January 1992 and in particular of its statement to the effect that a draft Act was sent to the National Congress on 9 July 1991 proposing provisional benefits for persons dismissed on political grounds from the public administration, from semi-state agencies and self-governing state undertakings, or from municipalities and for workers from private undertakings in which the public authority intervenes, whose discharge took effect during the period 11 September 1973 to 10 March 1990. The Committee hopes that this draft Act will be adopted in the near future; it asks the Government to supply a copy of the Act once it has been promulgated, together with information on its practical application.

2. The Committee also takes note of the observations supplied by Workers' Trade Union No. 7, División El Teniente, Codalco, Chile, in its letter of 17 February 1992, which was transmitted to the Government by ILO letter dated 6 March 1992. The Committee hopes that the Government will supply its comments on the letter in question so that it may be examined at the Committee's next session.

3. The Committee hopes that the next report will contain information on the following points raised in its previous observation:

- (i) 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 the 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.
- (ii) 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.

Cuba (ratification: 1965)

1. The Committee refers to its observation of 1991 in which it asked the Government, in particular, to forward its comments on the questions raised 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.

In this connection the Committee has taken note of a letter addressed to its members by the Government, supplying information on the domestic and international situation of Cuba. The Government states in particular that economic and political pressure are being brought to bear on its country, which is the object of a campaign of propaganda and disinformation designed to discredit and isolate it, and that it considers that the observations communicated by ICFTU fall within the context of that action. The Government expresses its support and respect for the work of the ILO on behalf of the workers of the world, describes the degree of application of the 86 international labour Conventions ratified by Cuba and mentions the importance it attaches to social development. At the same time it asks the members of the Committee and the Committee as a whole to make an assessment of the replies in the context of the exceptional situation through which the country is passing.

The Committee has taken note of this communication. For its part, it wishes to point out that, in its consistent task of determining whether the provisions of a given Convention are being complied with, it is guided only by the standards laid down in the Convention concerned. It is a matter of international standards, and the evaluation of their application must be uniform and not be affected by ideas derived from any particular social or economic system.

The Committee has also noted that the Government has not supplied specific comments on the questions raised by ICFTU, which relate to discriminatory practices based on the ideological attitude of the persons concerned.

According to ICFTU, these practices take, in particular, the following forms:

- the "expediente acumulativo escolar", or school record, which accompanies the student for the entire duration of his studies

- and forms part of the cumulative labour record (expediente acumulativo laboral) when the student seeks employment. The student's record contains in particular information about his or her moral, political and ideological education, which are the subject of an annual evaluation, and on his or her parents' participation in religion;
- the cumulative labour record, which contains information on the worker's political integration and attitude to the revolution (see paragraph 8 below);
  - the personal verification form, which is kept by the neighbourhood Committee for the Defence of the Revolution (CDR) on every worker and which contains in particular information about the worker's social conduct and possible relations with persons "unsympathetic to the revolution"; this document is no longer incorporated in the cumulative labour record, but is accessible to the authorities. ICFTU supplies photocopied extracts from these documents.

The ICFTU also supplies, with supporting documents and testimony, examples of discriminatory practices in employment and occupation, based on ideological attitude and relating to such matters as promotion, work abroad, access to housing and consumer goods, sexual harassment at workplaces, "repudiation" of applicants for emigration and a list of persons who have suffered through these practices. The Committee hopes that the Government will supply its comments on the questions raised by ICFTU so that they may be examined at its next session.

2. The Committee also takes note of the observations communicated by the Latin American Central Organisation of Workers (CLAT) in its letter dated 19 February 1992, transmitted to the Government by letter from the ILO. The Committee hopes that the Government will send its comments on the questions raised by CLAT so that they may be examined at its next session.

\* \* \*

The Committee also takes note of the information supplied by the Government to the Conference Committee in 1991 in reply to other questions raised in its previous observation.

#### Access to training

3. With reference to the criteria for the approval of applicants for admission to post-secondary or higher studies (Ministry of Education resolutions No.1/89 of 18 March 1989, paragraph 2, and No. 260/88 of 16 May 1988, paragraph 5), the Government has indicated that such approval is granted through a democratic procedure in which the teacher and the students' collective meeting as a student assembly participate. The teacher supplies information on the results of the tests and examinations to determine the student's knowledge. The students' collective at the same level and group as the applicant analyses the student's qualities and personality, his devotion to study, discipline, dedication to research, participation in teamwork, his human relations, etc. Thus the educational process is based on

the pupil's qualities and prepares him harmoniously for life in his environment. The students' collective also participates in the evaluation of the results of operation of the school.

The Committee takes note of this information. Although it appreciates the objectives of the participation of the students' collective, the Committee finds that approval is granted through a personal examination of the applicant centred not only on his intellectual and studious qualities but also on his social behaviour. In these circumstances, and also in view of the questions raised above concerning the student's record, the Committee hopes that the Government will take the appropriate measures to ensure that, in the individual examination which every applicant must undergo, no elements such as religion, political opinion or social origin, which might give rise to discrimination within the meaning of the Convention, are taken into account.

4. With reference to admittance to "directed courses" (Ministry of Higher Education resolution No. 250/81 of 31 July 1981, as amended by resolution No. 66/85 of 26 March 1985), the Government indicates that the approval of the administration and trade union section as to the "moral" requirements to be met by the applicant is nothing more than a conventional administrative formality and means that, in the case of courses for the workers, the candidate's application must be signed by the representatives of the trade union and of the administration.

The Committee has taken note of these explanations. The Committee hopes that, in this case too, no element regarded as discriminatory in the provisions of the Convention plays any part in admittance to the "directed courses" which, according to the above-mentioned texts, may also be accessible to citizens not bound by an employment relationship, which in this case must obtain the approval of the appropriate mass agencies.

#### Access to employment

5. The Government has indicated that the list of posts under the State, according to Legislative Decree No. 82 of 1984 on the work system of state officials and Decree No. 125 of 1984 on the regulations pursuant thereto, does not coincide with the lists of posts to be supervised by the Communist Party of Cuba under the resolution of the First Congress of the Communist Party of Cuba, 1975. Furthermore, the Government has stated that, even in the managerial posts shown in the list drawn up in accordance with the 1984 texts, the indicators governing selection and promotion do not include either membership of a political party or political opinion, but only the requisites for the managerial activities which the persons concerned have to carry on. With regard to the "spirit of collectivism" required of education staff, the Government has indicated that this is a means designed to ensure the democratic participation of students' collectives and organisations in politics and in the development of education in the country.

The Committee has taken note of these indications. The Committee recalls that the list of posts that depend on the system governed by the above-mentioned 1984 texts also include posts in the

administration and posts in undertakings and extends to heads of factories, workshops, brigades and teams. The Committee also recalls that the requirements for the occupation of directorial posts in education include the "spirit of collectivism" and "attachment to the masses and confidence in them". The Committee again emphasises that political opinion may only be taken into account when it is a required qualification for particular posts and functions, in accordance with Article 1, paragraph 2, of the Convention, that is to say for certain senior posts directly connected with the practical implementation of government policy. Consequently, the Committee is returning to the consideration of some aspects connected with political opinion which have been raised in previous comments on access to employment and the evaluation of workers.

6. The Government has stated that resolution No. 590/86 is without effect and does not constitute an element of discrimination in the inspection system of the Ministry of Education, which is being revised and will have been transformed before the end of the 1991 school year. The Government specifies that it is not a matter of political opinions but of education policy which is formulated and controlled by the Ministry of Education.

The Committee points out that, according to resolution No. 590/86, the process of teaching and the results obtained should be analysed from the standpoint of the policy of the Communist Party of Cuba (section 2) and evaluated taking into account their political, ideological and scientific content (section 8). The Committee again emphasises that these criteria may give rise to discrimination based on political opinion: (i) in the training of pupils and students; (ii) in the evaluation of the work of teachers subjected to inspection; and (iii) in the conditions of employment and evaluation of the work of those teachers. Consequently, the Committee hopes that, on the occasion of the revision of the education system, the Government has taken the necessary measures to ensure that the national laws and practice conform to the Convention.

7. The Committee takes note of the Government's statement that the provisions of Legislative Decree No. 34/1980, which were the subject of previous comments (authorisation to dismiss certain staff members in higher education establishments for conduct including activities contrary to socialist morality and the ideological principles of society) have no practical application today. The Committee hopes that, as the Government indicated, these provisions will be brought into harmony with the Convention when the above-mentioned legislation is revised. Furthermore, the Committee again asks the Government to supply the texts of joint resolution No. 2 of 20 December 1989 of the Ministries of Education and Higher Education, which deals with the rehabilitation of workers in education to whom Legislative Decree No. 34/1980 has been applied.

#### Evaluation of workers

8. The Committee refers to its 1991 observation. The Committee recalls that section 129 of the Regulations for the Application of Employment Policy (resolution No. 51/88 of 12 December 1988), like section 61 of the Labour Code, provides that the labour record is a

document that contains data and particulars of the worker's working experience and that the employing agency is under an obligation to prepare, update and keep such a record for every member of its staff. The Committee points out again that, among the "working merits" to be mentioned in the labour record (section 130 of the above-mentioned Regulations) and which are defined in section 5 of resolution No. 590/1980, are included, in particular, the fact of being selected for an international mission and the maintenance of an activity consistent with the principle of proletarian internationalism during the performance of the mission. According to section 6 of the same resolution, distinctions which do not constitute a labour merit but which are conferred by such bodies as mass organisations or official institutions and which express the "revolutionary attitude maintained by the worker outside his work centre" may be included in the labour record. The Committee considers that these provisions are not in conformity with the provisions of the Convention concerning the elimination of any discrimination based on political opinion.

The Government has stated in this connection that the system of merits and demerits related to work and governed by resolution No. 590/1980 of the Committee on Labour and Social Security (CETSS) forms an integral part of the "socialist emulation" organised and controlled by the trade union organisations and is independent of the system of evaluation of the qualifications of workers for purposes of access to and retention in employment. The Government explains that two recent resolutions not yet supplied to the ILO deal with these questions; these are resolution No. 18 of 19 November 1990 and resolution No. 4 of 15 March 1991.

The Committee has taken note of this information. The Committee observes that resolution No. 590/1980 is a text of regulations promulgated by the Minister-Chairman of CETSS and that it determines the facts to be included in the labour record by "labour merit and demerit assemblies" and that it defines those merits and demerits in sections 5 and 6 respectively. The Committee therefore considers that these are criteria for the professional assessment of the worker fixed by the Government, as will be seen, in particular, from the criteria relating to the results of work and vocational qualifications defined in clauses (a) to (d), (e) and (h) of paragraph 5 of the resolution (for example, designation as the best worker of the year, contribution to the increase in productivity and the quality of services, approval of examinations for technical skill or instructor's skill).

In addition, the Committee takes note of the Government's statement that, on the basis of these merits, moral and material incentives are granted by the trade union organisations (such as national or international tours at low prices or free of charge or the opportunity to purchase goods which are scarce in the country). The Committee considers that these privileges and benefits in kind are elements of the conditions of employment. Consequently, the Committee considers that the fact that they are distributed according to work-related merits decided upon by the trade union organisations does not exempt from the obligation under the Convention to ensure that the criteria constituting those merits do not involve elements that may give rise to discrimination, in particular on the basis of political opinion (such as the fact of having been selected to perform an



internationalist mission and of exhibiting an attitude consistent with the principle of proletarian internationalism). The Committee also considers that the inclusion in the work record of distinctions conferred for a "revolutionary attitude" outside the labour environment might constitute discrimination.

The Committee consequently hopes that the Government will take the necessary measures to bring the law into harmony with the Convention on these points.

9. The Committee is addressing a direct request to the Government on other points.

#### Czechoslovakia (ratification: 1964)

The Committee of Experts has noted that at its February-March 1992 Session (GB.252/16/19) the Governing Body approved the report of the Committee set up to examine the representations made by the Trade Union Association of Bohemia, Moravia and Slovakia (OS-CMS) and by the Czech and Slovak Confederation of Trade Unions (CS-KOS) under article 24 of the ILO Constitution alleging non-observance by the Czech and Slovak Federal Republic of Convention No. 111.

The Committee set up under article 24 of the Constitution examined the compatibility with the Convention of Act No. 451/1991 of 4 October 1991, known as the "Screening Act", with respect to exclusions of specified categories of persons from a wide range of functions and occupations, mostly in public institutions but also in the private sector. People liable to such exclusions include persons who were engaged in the past in specified functions, or were associated with or members of specified bodies or organisations of the former political system, in a period of over 40 years from 25 February 1948 to 12 November 1989.

The Committee was of the view that the exclusions established by Act No. 451/1991 may be deemed inherent requirements of particular jobs and therefore admissible under Article 1, paragraph 2, of the Convention only in a certain number of cases. It further found that the exclusions under the Act cannot be regarded as measures concerning activities prejudicial to the security of the State within the meaning of Article 4 of the Convention. It therefore was bound to conclude that, to the extent indicated, the exclusions imposed by Act No. 451/1991 constitute discrimination on the basis of political opinion under the terms of the Convention. It also found that the appeals procedures under Act No. 451/1991 did not fully meet the requirements of the Convention.

The Committee expressed confidence that a satisfactory solution would eventually be reached as the necessary elements conducive to such a solution already exist. It recommended that the Government should be invited: to refer the matter at the earliest date to the Constitutional Court of the CSFR for a ruling on Act No. 451/1991, having due regard to the provisions of Convention No. 111; to take the necessary measures in consultation with employers' and workers' organisations with a view to repealing or modifying Act No. 451/1991 in conformity with the requirements of the Convention; to take measures to enable any persons unjustly affected by the Act to obtain

redress; and to have appropriate consultation, and if necessary, cooperation with the International Labour Office in carrying out these recommendations. It also recommended that the Committee of Experts follow up the matter.

The Committee of Experts requests the Government to report on the measures taken to implement the above recommendations in order to give full effect to the Convention, so that it can follow up the matter at its next session.

Germany (ratification: 1961)

The Committee notes the communications received in February 1991 and December 1991 from the World Federation of Teachers' Union (FISE), concerning the application of the Convention. Copies of these communications were transmitted by the ILO to the Government in April 1991 and January 1992. The Committee notes that the Government has not yet replied.

FISE alleges that personnel in the public service education system in the former German Democratic Republic are victims of the policy of professional bans which had been applied in the former Federal Republic of Germany. According to the information supplied by FISE, teachers have been arbitrarily dismissed from their teaching posts in violation of Convention No. 111. Personnel in the public service education system in the former German Democratic Republic are being required to complete questionnaires concerning, among other things, their past positions, past national decorations received, whether they had been reproached or suspected of having violated fundamental principles of humanity or of States' rights and whether they were willing to commit themselves to the fundamental liberal-democratic system of the Federal Republic of Germany and to defend its laws. Dismissals of such personnel may result from the nature or content of answers to the questionnaire or from a refusal to answer it.

The Committee requests the Government to forward its observations on the questions raised by the FISE so that it can examine them at its next session. In this regard, it would be grateful if the Government would provide detailed information on the number of public service officials, including teachers, who have been dismissed from their posts following the reunification, the legal basis for their removal from service, the criteria applied in determining removal as well as the procedural protections applicable and followed, and the manner in which the information collected from the personnel questionnaires is reviewed and used to condition continuation of employment in the public service, including teaching. The Committee will examine the issues raised in the communications of FISE, along with the next report of the Government at its next session.

The Committee also hopes that the next report will contain replies to the points which were raised in its observation and direct request of 1991.



Ghana (ratification: 1961)

The Committee notes from the Government's reply that the National Advisory Committee on Labour has begun discussion on the comments of this Committee and would soon come out with recommendations to facilitate the amendment of the Civil Service Act of 1960 and Regulation 60(1) of the Civil Service (Interim) Regulations 1960. As no more specific information was provided, the Committee is obliged to repeat its previous comments which read as follows:

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.

#### Guinea (ratification: 1960)

1. Further to its previous comments, the Committee notes with satisfaction that the Fundamental Act of 23 December 1990 provides in its section 8 that no one may be privileged or placed at a disadvantage by reason of his or her birth, race, ethnic origin, language, beliefs and political, philosophical or religious opinions and in its section 18 that no one may be placed at a disadvantage at work by reason of his or her sex, race, ethnic origin or opinions, in accordance with the principle of non-discrimination stated by the Convention.

2. In its previous observation, the Committee noted that section 20 of Ordinance No. 017/PRG/SGG of 5 March 1987, dealing with the general principles of the public service, prohibited discrimination only on the grounds of philosophical and religious opinions and sex, and did not include the other grounds listed in Article 1(a) of the Convention, namely race, colour, political opinion, national extraction and social origin. The Committee

consequently expressed the hope that the new public service regulations would cover all the grounds of discrimination that are set out in the Convention. The Committee notes the Government's statement that the new public service regulations have been adopted and are applied. The Committee asks the Government to supply the text of the above-mentioned regulations.

Iceland (ratification: 1963)

The Committee has noted over many years the measures taken by Iceland since 1976 when the first law on equality between women and men was adopted in that country.

1. The Committee notes with interest the adoption of the Act on the Equal Status and Equal Rights of Women and Men, No. 28 of 1991, which: divides the functions of the Equal Status Council into a special Complaints Committee responsible for matters of equality and leaves the Equal Status Council with, *inter alia*, the task of promoting the aims of the Act, developing policy and serving as an advisory body; reverses the burden of proof in cases presented to the Complaints Committee by requiring an employer to prove that sex was not a factor in a matter regarding the alleged infringement of a right under the Act; requires the Minister of Social Affairs to present to the Parliament a motion for a parliamentary resolution on a Four-Year Programme on Matters of Equality; provides for the appointment, in local government areas of more than 500 inhabitants, of Equal Status Committees which shall be responsible for matters of equality within their areas in accordance with the Act; and delineates more clearly the responsibilities and relations between the Ministry of Social Affairs, Equal Status Council and local equal status committees.

The Committee requests the Government to provide information in its next report on the practical implementation of the Act, and in particular on the activities of the Complaints Committee of the Equal Status Council and the local government Equal Status Committees.

2. The Committee also notes with interest the adoption of the Government's second Four-Year Plan of Action on Measures to Achieve Equality between the Sexes (1991-94). Recognising the Government's obligation to take the initiative and set an example, the plan places emphasis on the responsibilities of ministers and ministries to strive, each in their own field, towards achieving equality in the status of women and men. The Committee notes that the proposals made under the plan to the relevant ministries concern: measures to promote equal status between men and women at all levels of the education system, wage terms between men and women, the improvement of the position of women in the labour market and in rural areas and various social rights. Among these proposals, the Committee notes with interest the proposals on the establishment of a working group on the position of men in a changed society with more of an equal distribution of tasks and division of family responsibilities (2.1); vocational training legislation (2.7); special courses for women employed by the State (3.1); women employed in industry (7.1, 7.2); women in agriculture (8.1, 8.2); the establishment of a working group

on sexual equality in the schools (9.3), as well as the position of women in particular industries such as banking.

The Committee requests the Government to provide information in its next report on the progress made in the implementation of the Plan and, in particular, on the proposals highlighted above.

Iraq (ratification: 1959)

1. Further to its observation of 1991, the Committee notes the report of the Committee responsible for examining the representation made under article 24 of the ILO Constitution by the Federation of Egyptian Trade Unions alleging the non-observance by Iraq of certain Conventions, including Convention No. 111. It notes the above Committee's conclusion that it does not appear that the actions complained of were carried out on any of the grounds covered by the Convention.

2. In its previous direct request, the Committee noted the ninth report (submitted in 1988) of the Government to the United Nations Committee on the Elimination of Racial Discrimination, in which the Government stated that it had taken measures to promote the cultural rights (including the right to education and training) of citizens belonging to the ethnic and linguistic minorities of the country such as the Turkoman and Kurdish minorities. The Committee requested information on the results of these measures and on the manner in which the principle of equality of opportunity and treatment laid down by the Convention is applied to these minorities in respect of access to employment and occupation.

3. The Committee notes that, in its last report supplied in October 1990, the Government merely cites the provisions of the Constitution and labour legislation which guarantee equality in employment for all citizens. The Committee points out that under Article 2 of the Convention the Government undertakes to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination, including discrimination on the basis of national extraction. Consequently, the Committee again asks the Government to provide information in its next report on the measures that have been taken or are under consideration to ensure that, in practice, the members of the Kurdish and Turkoman minorities are not subjected to any discrimination in employment or occupation and that they fully enjoy equality of opportunity and treatment.

Italy (ratification: 1963)

1. With reference to its previous direct request, the Committee has taken note with interest of Act No. 125 of 10 April 1991 on positive action for the attainment of equality between men and women at work, and of its implementing Decrees. The Act aims at promoting the employment of women and establishing equality between men and women at work, in particular through the adoption of measures of positive action to eliminate de facto obstacles to the attainment of

equal opportunity. It makes it possible for undertakings and agencies that adopt positive action projects to be reimbursed for certain expenditures incurred through the implementation of such projects; makes it an obligation for private and public undertakings employing more than 100 persons to report every two years on the distribution of men and women on the staff; provides for the establishment in the Ministry of Labour of a National Committee for the Application of the Principles of Equal Treatment and Equal Opportunity for Male and Female Workers; and provides for reversal of the burden of proof borne by the defendant when the plaintiff produces precise and consistent facts such as to warrant the presumption that there is a situation of discrimination on the basis of sex.

The Committee would be grateful if the Government would transmit with its next report information on the implementation of Act No. 125; on the activities of the bodies established by the Act, in particular the National Committee for the Application of the Principles of Equal Treatment and Equal Opportunity for Male and Female Workers; and on the way section 4 (concerning actions at law) has been utilised in practice.

2. The Committee has noted with interest from the information supplied concerning the application of Convention No. 100 that in the course of the latest round of collective bargaining, a number of collective agreements have included special clauses designed to promote equality for women and establishing joint committees to that end. The Committee asks the Government to supply information on the implementation of those clauses in practice and in particular on the activities of the joint committees.

3. The Committee has also noted with interest that a number of collective agreements recently concluded - for example in the footwear, textile and clothing, and leather industries - contain a clause on the personal dignity of the workers which prohibits sexual harassment and prescribes a procedure for dealing with cases of such harassment. The Committee asks the Government to supply, if possible, information on the way such clauses are applied in practice.

#### Malta (ratification: 1968)

1. The Committee notes with satisfaction the adoption of Act No. XIX of 1991 amending article 45 of the Constitution to include the term "sex" among the grounds contained in the definition of discrimination (subsection 3) and to prohibit affording differential treatment to persons wholly or mainly due to their sex with respect to matters of personal law including adoption, marriage, dissolution of marriage, burial and devolution of property on death (subsection 4(c)).

2. The Committee notes with interest another amendment to the Constitution, substituting the former article 14, aimed at ensuring equal rights for women workers, with the provision that the State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes. It further notes the amendment to article 45 of the Constitution authorising the taking of special

measures aimed at accelerating de facto equality between men and women. The Committee would be grateful if the Government would provide information on the measures contemplated or taken pursuant to these sections to promote equality of opportunity and treatment between men and women in the field of the Convention.

3. The Committee notes with interest the establishment of the Commission for the Advancement of Women in 1989, which is entrusted with, among other duties, the proposal of amendments to be made to national laws to achieve equal status in a truly meaningful manner. It also notes with interest the establishment of the Secretariat for the Equal Status of Women in 1989, which has among its objectives the promotion and encouragement of effective implementation of the principles of equality between women and men in every sphere of Maltese life, including the promotion of co-responsibility within the family. The Committee requests the Government to continue to provide information on activities and recommendations of the Commission and the Secretariat, indicating in particular the level of responsibility each of these agencies has in national policy-making and the results they have achieved in the field of the Convention.

Paraguay (ratification: 1967)

1. Further to its previous comments, the Committee notes with interest from the Government's last report that Act No. 294 (Defence of Democracy Act) which prohibited the employment of members of the Communist Party or of the other organisations referred to in the Act, in public institutions, services maintained by the State or by municipal authorities, enterprises providing public services and private education establishments, has been repealed by Act No. 09/89 of 4 September 1989. The Committee asks the Government to supply a copy of Act No. 09/89 with its next report.

2. The Committee notes that the report contains no information in reply to the point raised in its previous observation, which is reproduced hereunder:

In previous comments, the Committee has referred to section 34 of Act No. 200 establishing the Public Employees' Statute, according to which no public employee may engage in activities contrary to public order or to the democratic system established by the national Constitution.

The Committee notes the information provided by the Government in its report, concerning the practical application of section 34 of Act No. 200, to the effect that if public employees engage in activities contrary to public order they may be removed from their posts and barred from holding public office for a period of from two to five years (section 49.5 of Act No. 200).

The Committee recalls that provisions restricting the political activities of public employees may have the effect of excluding from the scope of constitutional and legal protection against discrimination with regard to employment, persons who express or manifest certain opinions or political ideas which are contrary to the opinions of the established authorities. It is therefore important to ascertain whether, in practice, the above



provisions lead to discrimination on the basis of political opinion for the categories of workers concerned.

The Committee, in order to be able to ascertain the effect given to the Convention, hopes that the new Government will provide a copy of any sentences handed down or decisions made by virtue of sections 34 and 49.5 of Act No. 200, and will supply any further information that may enable it to ascertain the scope of the provision contained in section 34 of Act No. 200.

The Committee hopes that the next report will contain information on the above questions, in view of the repeal of Act No. 294 and the statement contained in the last report, to the effect that the national government fully guarantees freedom of opinion for all sectors of the population.

3. The Committee refers to its direct request of 1989 concerning a draft amendment to the Penal Code. It requests the Government, in its next report, to indicate the present status of the above draft and to provide, if appropriate, the text of the provisions adopted.

#### Philippines (ratification: 1960)

Further to its previous comments, the Committee notes with satisfaction the adoption of Republic Act No. 6725 of 12 May 1989 which amends section 135 of the Labor Code by making unlawful and liable to penal sanctions, inter alia, payment of a lesser compensation, including wage, salary or other fringe benefits, to a female employee than to a male employee, for work of equal value; and the favouring of a male employee over a female with respect to promotion, training opportunities, study and scholarship. It also notes the guidelines promulgated, in consultation with major women's organisations and labour unions, to implement the provisions of Act No. 6725.

#### Poland (ratification: 1961)

The Committee notes the information supplied in the Government's report in reply to its previous comments.

1. The Committee notes with satisfaction the elimination of political criteria as a basis for the appointment or removal of judges, pursuant to the amendment of the Act of 20 June 1985 respecting the system of courts by Act No. 138 of 14 March 1990; the amendment of the Act of 20 September 1984 respecting the Supreme Court by Act No. 153 of 2 May 1990; and the adoption of Act No. 435 of 20 December 1989 respecting the National Judiciary Council. The Committee also notes with satisfaction that section 13 of Act No. 435 sets out a period of time for the nomination of judges who had previously been deprived of their positions on account of political opinion or activity and who met the necessary qualifications.

2. The Committee also notes with satisfaction the adoption of the Act of 9 March 1990 to amend the Act on State Enterprises (No. 122) which establishes fundamental changes in the principles governing



selection of candidates for director's posts including the elimination of the political character of competition committees.

3. The Committee notes that work continues on the elaboration of new labour legislation. The Committee recalls that, in previous reports, the Government had referred to the setting up of a national committee for the revision of labour legislation and of a group of experts to examine the conformity of the legislation with international labour standards relating to the protection of human rights. It also recalls the indications given by the Government regarding the revision of the Constitution, due to be completed in 1991.

The Committee would be grateful if the Government would continue to provide information on the work of the above-mentioned Committees and on the progress concerning the elaboration of the new Constitution and new labour legislation. It continues to hope that the Constitution and labour legislation, when adopted, will give full effect to the provisions of the Convention.

4. The Committee notes the activities undertaken by the Office of the Commissioner for Civil Rights Protection, established in 1987, particularly in its protection of the principle of equality in terms and conditions of work and its protection of women's right to employment and equality. It notes that in the area of labour law and social services the Commission assists workers by instituting individual and collective proceedings and lodging, when necessary, motions to the Constitutional Tribunal and the Supreme Court. The Committee requests the Government to continue to provide information on these activities including copies of the detailed annual reports prepared by the Commissioner for Civil Rights Protection.

5. The Committee notes with interest the adoption of Resolution No. 53/90 of the Council of Ministers dated 2 April 1991 respecting appointment of the Government Plenipotentiary for Women and Family Affairs whose main tasks, among many, are to initiate and coordinate activities aimed at women's equality in all spheres of life. It would be grateful if the Government would supply information on the scope and nature of activities carried out by the Plenipotentiary and the results achieved.

6. The Committee is also addressing a request directly to the Government on other points.

#### Romania (ratification: 1973)

1. The Committee recalls that for many years it had examined the compatibility with the Convention of measures which resulted in discriminatory practices in employment and occupation on the grounds of political opinion, social origin and national extraction. In June 1989, a number of Workers' delegates to the International Labour Conference filed a complaint against the Government of Romania under article 26 of the Constitution, alleging violation of Convention No. 111. Since then, the Committee had suspended its comments pending examination of this complaint by the Commission of Inquiry constituted by the Governing Body.

2. The Committee takes note of the report of the Commission of Inquiry, which was presented in May 1991 (see ILO Official Bulletin, Vol. LXXIV, 1991, Series B, Supplement 3) and of the last report of the Government, which was received in February 1992.

3. The Committee notes that the change of Government which took place in December 1989 affected the procedure followed by the Commission of Inquiry, which concluded that the renunciation of the concept of the Single Party and the establishment of the multi-party system, the authorisation to form occupational organisations and associations and the restoration of freedom of worship had vindicated some of the charges made in the complaint and made moot any recommendations it could have deemed fit to make in this respect. The Committee notes that the Commission of Inquiry's recommendations were thus formulated only in respect of such conclusions as might have a bearing on the present situation.

4. The Commission of Inquiry generally concluded that discriminatory practices based on political opinion and social origin may continue to occur in practice; that discrimination based on national extraction and race continued to exist to a serious extent against the Roma and, to a lesser extent, against the Magyars; and that no policy to promote equality of opportunity and treatment in employment and occupation, as called for in the Convention, existed.

5. The Commission recommended, as essential premises for the application of the Convention, the strengthening of the concept of the rule of law in Romanian society; the adoption of the principle of separation of powers; the establishment of an independent and objective judiciary including just rights of access, appeal and due process in judicial proceedings; and the observance of human rights, including freedom of association and of collective bargaining. The Commission specifically recommended that measures should be taken as soon as possible to end all discrimination in employment and occupation based on any of the criteria set out in the Convention, and in particular on political opinion; to dismantle the policy of assimilation and discrimination against minorities; to redress the effects of the former policy of discrimination; and to formulate and promote a policy of equality of opportunity and treatment in employment, occupation, training and education, including the development of a climate of tolerance for all groups of Romanian citizens regardless of their race, religion or national extraction. The Commission further recommended a number of specific actions to be taken to accomplish the above aims and that detailed information on all relevant developments be given in the annual reports on the application of Convention No. 111, submitted under article 22 of the ILO Constitution.

6. In the light of the Committee's previous comments, the conclusions and recommendations of the Commission of Inquiry and the information contained in the report of the Government, the Committee wishes to make the following comments:

Measures to establish the political, legal and social framework necessary to apply the Convention

7. The Committee refers to the recommendations of the Commission of Inquiry concerning the need for Romania to establish certain conditions as essential premises for full compliance with Convention No. 111. Firstly, the Commission stressed the need to establish the rule of law. The Committee notes with interest that in the new Constitution of 8 December 1991, political pluralism is guaranteed; the separation of the legislative, executive and judicial powers is set out; a Defender of the People is to be appointed to defend the rights and liberties of the citizens; free access to justice is guaranteed along with the right to have an interpreter before the court; and the independence of judges and due process guarantees are established, as well as the right to personal freedom and the right to choose one's residence. The Committee also notes with interest the Constitutional provisions concerning the incorporation of international treaties, to which Romania is a party, into national law (article 11) and the requirement for the rights and liberties of citizens under the Constitution to be interpreted and applied in conformity with the Universal Declaration of Human Rights and other treaties, and the priority given to international human rights treaties over national laws in cases of inconsistency (article 20).

8. Secondly, the Commission stressed the need to develop a climate of mutual tolerance in the country. In this respect, the Committee expresses its interest in article 30 of the new Constitution which establishes rights of freedom of expression but at the same time declares that such freedom shall not be prejudicial to one's dignity, honour, personal privacy and the right to one's own image and it outlaws instigation to national, racial, class or religious hatred. The Committee also emphasises the importance it attaches to the declaration published by the Government on national minorities, the details of which are more fully set out below. The Committee requests the Government to report on the results these efforts have had on public opinion and to supply details on other measures contemplated or taken to foster understanding of the principles of equality of opportunity and treatment and tolerance between various groups of the population.

Discrimination on the grounds of political opinion and social origin

9. With reference to its previous comments, the Committee notes with interest that article 4(2) of the Constitution of 8 December 1991 prohibits discrimination on all the grounds set out in Article 1, paragraph 1(a), of the Convention, including the grounds of political opinion and social origin. The Committee also notes with satisfaction that section 2 of the Labour Code as amended by Decree No. 147 of 1990, now also refers to political convictions and social origin as grounds on which discrimination is prohibited and that Act No. 30 of 15 November 1990, concerning the recruitment of employees on the basis

of abilities, prohibits distinctions based on political, ethnic or denominational (religious) criteria, sex, age or economic situation.

10. The Committee notes the conclusion by the Commission of Inquiry that while it was convinced that there was no longer a nationally defined and rigorously applied policy which would lead, in the field of employment and vocational training, to discrimination on the basis of political opinion and social origin, in fact, manifestations of differing political opinions than those in power may still give rise to discriminatory practices. It would therefore be grateful if the Government would provide information on the measures taken or contemplated to ensure that such practices are stopped, including information on the establishment of grievance procedures, the implementation of judicial decisions condemning such practices and the establishment of procedures controlling the use of the personnel records which workers had to fill out under the former regime.

11. The Committee also notes that article 50(a) of the new Constitution provides that "faithfulness towards the country is sacred". The Committee recalls its previous comments concerning the need to eliminate or clarify terms such as "loyalty to the Government" and accordingly requests the Government to clearly define what is meant by the above provision in order to avoid all risk of arbitrariness in its application which could amount to discrimination under the Convention.

Discrimination on the grounds of  
national extraction and race

12. The Committee recalls that in previous comments it had drawn attention to the discriminatory effect of the former regime's policy of forced assimilation including discrimination against minorities in access to employment, training and education largely on account of linguistic problems; and to resettlement policies affecting the Magyars (Romanian citizens of Hungarian origin). The Commission of Inquiry found conclusive evidence of the existence of discrimination in employment and occupation affecting members of national minorities on the grounds of national extraction and race. The Roma minority, and to a lesser extent the Magyar minority, are the two groups against whom discrimination is systematically practised. The Committee notes the conclusion by the Commission of Inquiry that the repeal of the provisions respecting the arbitrary posting of graduates and the abolition of discriminatory administrative practices had contributed to the elimination of certain situations in which there had been complaints. However, the Commission observed that these measures alone have not restored equality for the Magyars. With regard to the Roma, the Committee notes that the Commission of Inquiry concluded that no appreciable improvement in their situation had occurred since the events of 1989, and that direct discrimination appears to continue and is probably aggravated under the influence of the defamatory campaigns conducted by the mass media, which treat the Roma as scapegoats responsible for all past, present and future ills.

13. The Commission of Inquiry recommended a series of measures to be taken by the Government to improve the situation of these minorities, including the adoption of a language policy which would

take into consideration the linguistic needs of members of these communities and facilitate their access to education, training and employment; and the adoption of a national policy recognising the cultural identity of the minorities and the eradication of negative attitudes which had been particularly cultivated against the Roma.

14. The Committee thus notes with interest the provisions in the new Constitution which prohibit discrimination on the grounds of race, nationality or ethnic origin (article 4(2)), and which recognise, and guarantee, to any person belonging to a national minority the right to the preservation, development and expression of one's ethnic, cultural, linguistic and religious identity (article 6(1)); and the requirements that protective measures taken for the national minorities shall conform to the principles of equality and non-discrimination in relation to other Romanian citizens (article 6(2)).

15. The Committee notes with great interest the Declaration of the Government on national minorities, published in a national newspaper on 4 December 1991. In this Declaration, the Government recalls that the rights and obligations and freedoms established in its new democracy apply to all citizens including those members of minorities, and it pledges to guarantee the constitutional rights of minorities, including the preservation of their cultural identity and the right to study in their mother tongue. Persons belonging to the minority will be protected against attempts at forced assimilation and measures of exclusion and segregation. The Government recalls the penal sanctions against acts of violence committed against a person of another nationality on the basis of their nationality or ethnic origin and it reaffirms its intention to rigorously apply the law in this respect. It also pledges to denounce and combat nationalist hatred, fanaticism, racism and antisemitism. The Committee requests the Government to indicate the extent to which the Government's declaration has legal effect.

16. The Committee also notes with interest the repeal of Decree No. 153/1970 which provided for penalties in the case of certain offences against laws of communal social life and public law and order, and which had been used against members of the Roma minority.

17. With reference to linguistic needs, the Committee notes with interest article 32 of the new Constitution which provides, *inter alia*, that education in all grades may be conducted in widely spoken foreign languages other than Romanian and that any person who belongs to a national minority is guaranteed the right to learn and to be educated in his mother tongue, pursuant to regulations. The Committee requests the Government to provide information on the manner in which education in the mother tongue of the Magyar and Roma minorities is guaranteed in practice and to supply copies of any regulations issued pursuant to this provision. In this connection, the Committee also notes Decision No. 521/1990, respecting the organisation and functioning of teaching in Romania for 1990-91, which provides for teaching of vocational training in the mother tongue of the Roma but not of the Magyar. The Committee asks the Government to provide information on the implementation and evaluation of this programme and to indicate whether any measures have been taken or are contemplated

to extend the possibility to receive vocational training to the Magyars in their mother tongue.

18. With respect to specific measures to improve the social and economic situation of the Roma, the Committee notes with interest the information provided in the Government's report on the adoption of a programme aimed at increasing the socio-economic status of the Roma and solving their problems of employment. The programme includes the hiring of 22 labour inspectors (13 of which have already been engaged), constant contact and cooperation with the leaders of the Roma communities, the holding of training and retraining courses for unemployed Roma, the institution of an interministerial commission, a study on the construction of housing for the Roma, integrating the Roma into legal lucrative activities and collecting data on the Roma. The Government indicated that the census held in January 1992 will contribute substantially to this collection of data. The Committee welcomes this initiative, and notes the Government's statement that this programme was adopted following the recommendations of the Commission of Inquiry. The Committee requests the Government to continue to supply information on the implementation of the programme and the results achieved. In this respect it would be grateful if the Government could provide more detailed information on the manner in which the representatives of the Roma participated in the formulation of the programme and the manner in which they will participate in its implementation.

19. The Committee believes the above combination of actions may be considered as an initial positive response to the recommendations of the Commission of Inquiry with regard to the formulation of national policies to address the existence of discrimination and intolerance against national minorities. The Committee would now underline the need for the application in practice of these policies and it requests the Government to provide details on the implementation of the constitutional and legislative provisions and the impact of the Government's policy on national minorities.

#### Measures of redress

20. The Committee notes that no information was provided on the implementation of certain recommendations made by the Commission of Inquiry concerning the compensation of persons who had been victims of discrimination based on political opinion. In particular the Committee requests the Government to indicate the measures taken to give effect to Recommendations No. 4 (concerning putting an end to the effect of all discriminatory measures in employment and restoring equal opportunity and treatment to the persons concerned), No. 6 (concerning the guarantee of an efficient and impartial follow-up to the requests for medical examination made by the persons who went on strike on 15 November 1987 in Brasov, who had been rehabilitated by the courts), and No. 7 (concerning the reinstatement of workers who had lost their jobs as a result of being arrested following the June 1990 demonstrations and who had not been released until more than two months). It also requests the Government to provide the information requested in Recommendation No. 20 on reparations for the



discrimination suffered by national minorities or by persons persecuted for political reasons.

Dissemination of conclusions and  
recommendations of the Commission of Inquiry

21. The Committee notes with interest that, in accordance with the request of the Governing Body, the conclusions and recommendations of the Commission of Inquiry have been published in Romanian in order to permit their dissemination to the persons concerned. The Committee requests the Government to indicate the measures taken or envisaged to ensure the widest possible dissemination of this publication.

The situation of women workers

22. The Committee notes that it has not received information on the promotion of equality between men and women for a number of years. It requests the Government to provide information on the measures taken or contemplated to prevent discrimination on the grounds of sex and to promote equality of opportunity and treatment between men and women, and on the results obtained with regard to:

- access to vocational training;
- access to employment and to a particular occupation;
- terms and conditions of employment;
- retention of employment.

Cooperation of workers' and  
employers' organisations

23. The Committee requests the Government to indicate the manner in which it seeks the cooperation of employers' and workers' organisations and other appropriate bodies in securing application of the Convention.

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.

#### Sudan (ratification: 1970)

In its previous observation, the Committee noted the Government's indications to the effect that the Constitution and the labour legislation guaranteed equal opportunity in employment for all citizens and protected workers against any discrimination in employment and occupation, whether on the basis of origin, race, colour, sex, religion or political opinion. It also noted that, according to the Government, the principles of equity and equality applied to all employment available in all regions of the country, and it asked the Government to indicate the positive measures taken to ensure effective promotion of equality of opportunity and treatment in employment, in accordance with the Convention.

The Committee notes that in its latest report the Government repeats the statements described above and adds that it is adopting a policy designed to consolidate the country's economic boom.

The Committee notes that the 1985 Constitution, section 17 of which stipulates the right to equality of opportunity in employment and prohibits all discrimination on the basis of origin, race, colour, sex, religion or political opinion, has been suspended since 1987; it points out that the labour legislation (Labour Act of 1974 and Public Service Regulations of 1975) do not contain any provision expressly prohibiting discrimination on the grounds enumerated in the Convention.

The Committee asks the Government to indicate how respect for the principle of non-discrimination is ensured in law and in practice and what measures have been taken to declare and pursue a national policy

designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof, in accordance with Article 2 of the Convention. It refers to paragraph 158 of its General Survey of 1988 on Equality in Employment and Occupation, in which it indicated that this national policy should "be clearly stated, which implies that programmes for this purpose should be or should have been set up and, secondly, should be applied, presupposing State implementation of appropriate measures".

In the absence of any information to show that such a policy has been stated or that it has been applied in practice, and having regard to the suspension or vagueness of the legal texts on the subject, the Committee again asks the Government to supply full and precise information on the measures taken or contemplated at the national, regional and local levels to promote equality of opportunity and treatment and to eliminate all discrimination in employment on the basis of race, colour, sex, religion, political opinion or ethnic or social origin. In particular, the Committee asks the Government to indicate the measures taken to implement that policy in respect of employment under the direct control of a national authority, in accordance with Article 3(d) of the Convention and to ensure equality in access to vocational training, access to employment and to the various occupations, and conditions of employment.

#### Sweden (ratification: 1962)

The Committee notes the information provided by the Government in reply to its previous comments and the observations of the Swedish Trade Union Confederation and the Swedish Confederation of Professional Employees contained in the report.

#### Promotion of equality between men and women

1. The Committee notes with interest that the investigator appointed by the Government in June 1988 to evaluate the Equal Opportunities Act has presented a report recommending amendments to the Act and reinforcement of its provisions. The Committee notes, among the many points made in the report, the recommendations that the advisory and information service of the Equal Opportunities Ombudsman should be extended to include the education sector; and that additional safeguards should be introduced against indirect discrimination, wage discrimination, sexual harassment and reprisals for allegations of sex-based discrimination. The investigator also recommends the expansion of the employer's statutory duty of actively promoting equal opportunities. The Government reports that this recommendation implies an expansion of the Ombudsman's responsibilities so as to include supervision over collective agreements. According to the Government's report, collective agreements are often framed in general terms and do not contain anything over and above what is stated in the Act.

In this regard, the Committee notes the comments made by the Swedish Trade Union Confederation (LO) indicating that the

investigator's evaluation of the Equal Opportunities Act did not entail a close study of the promotion of equal opportunities by trade unions and pointing out that most of the agreements on equal opportunities go further than the provisions contained in the Act and that a number of other activities are in progress in the equal opportunities context.

2. The Committee further notes with interest the introduction of a new Equal Opportunities Bill (1990/91:113) which, the Government states, is based on the report of the special investigator and the Government's recently adopted Equality Policy to the Mid-nineties, to which the Committee referred in its previous observation. According to the Government's report, the new draft Act prohibits harassment and indirect discrimination and, inter alia, places an obligation on the employer to counteract sexual harassment and requires employers with ten or more employees to draw up an annual plan for the promotion of equal opportunities. The Government also indicates that the draft Act is intended to expand the scope of investigations concerning pay discrimination by making it possible to assess what is equal or equivalent work.

In this regard, the Committee notes the comments forwarded by the Swedish Confederation of Professional Employees (TCO) to the effect that the proposed new Equal Opportunities Bill contains many improvements over the existing legislation but falls short of the special investigator's recommendations. Specifically, TCO expresses concern over the provisions on equal pay and the assessment of whether work is equal or of equal value, as it finds the basis for the evaluation of certain duties restrictive and considers that trade unions should have the right to examine the value of work and different jobs.

3. The Committee would be grateful if the Government would report on the status of the new Equal Opportunities Bill and supply a copy upon its adoption. With reference to its previous comments, the Committee requests the Government to indicate whether the draft contains a provision to safeguard against reprisals for making allegations of discrimination. It asks the Government to provide information on the measures taken to follow up the other recommendations in the evaluation report of the investigator. The Committee also requests the Government to supply information on the activities undertaken by the trade unions to promote equal opportunity including the settlement of sex discrimination disputes through trade union dispute procedures, and to forward copies of collective agreements which contain provisions relevant to the promotion of equal opportunity on any grounds covered by the Convention.

#### Measures against ethnic discrimination

4. The Committee notes that the Ombudsman against ethnic discrimination (the Discrimination Ombudsman - (DO)) took part in trade union activities on the central, regional and local levels, and in various training activities for employment counsellors and placement officers and raised questions of harassment with employers' and workers' organisations. The Committee notes with interest that the DO, in December 1989, submitted to the Government draft legislation

against ethnic discrimination at work which would extend the ban on ethnic discrimination to the entire labour market and to employment of all kinds. The Committee notes the statement in the report that refusal of employment remains the most common problem facing immigrants in the employment sector and that the need for legislation in this field has been accentuated. The Committee requests the Government to report on the status of the draft legislation and its prospects of adoption.

5. The Committee notes with interest that the Commission Against Racism and Xenophobia completed its work in March 1989 and recommended that a law against ethnic discrimination in working life should be reconsidered. It further notes that, on the basis of the report, the Government introduced a Bill in February 1990 (1989/90:86) containing its assessment of the existence of discrimination on ethnic grounds and the need for measures designed to further good ethnic relations. The Committee would be grateful if the Government would supply a copy of the Commission's report along with a copy of the proposed Bill. It also requests the Government to clarify the difference in the provisions between this Bill and the one proposed by the Discrimination Ombudsman referred to above.

6. The Committee notes that in May 1990, the Government set up a Commission to Study Measures Against Ethnic Discrimination which, among other things, is to examine the need for a special law against ethnic discrimination in working life and to present proposals for such a law. This study is to be undertaken in close consultation with the concerned parties in the labour market and its report should be ready in 1992. The Committee requests the Government to provide information on the contents of the report and its recommendations, particularly in relation to the above mentioned Bill submitted by the Government and the draft legislation proposed by the Discrimination Ombudsman.

#### Article 4 of the Convention

7. The Committee notes from the Government's report that the Swedish ILO Committee has expressed its concern over a possible discrepancy between proposed Swedish rules on the screening of personnel and this Article of the Convention. The Committee notes that this Committee drew the application of this Article to the attention of the Parliamentary Commission (SAPO-kommitten), before which the report which contained the proposals on the screening of personnel was presented, and that subsequently it has raised the same concern with the Ministry of Public Administration. The Committee hopes that the adoption of any personnel rules will be in full conformity with the requirements of this Article of the Convention. It further requests the Government to supply a copy of the relevant proposals contained in the Commission's report.

The Committee is addressing a request on other matters directly to the Government.

Yugoslavia (ratification: 1961)

1. The Committee recalls that the Union of Independent Trade Unions of Kosovo communicated comments on 5 February 1991 concerning discriminatory measures allegedly taken in the province of Kosovo against persons of Albanian extraction in matters of employment and occupation. These observations were transmitted to the Government for its comments.

The Committee notes that a representation was made on 12 June 1991 by the International Confederation of Free Trade Unions (ICFTU), under article 24 of the ILO Constitution, alleging non-compliance with the Convention by Yugoslavia in the province of Kosovo. The Committee notes the decision of the Governing Body at its 250th Session (May-June 1991) to declare the above representation receivable and to set up a committee to examine it. Consequently, the Committee is suspending examination of this matter and of the other questions raised in its previous comments concerning the application of the Convention, pending the conclusions of the above committee.

2. The Committee notes the observations communicated on 17 October 1991 by the Independent Trade Union of the Employees in Administration of Justice in Bosnia and Herzegovina. According to the above communication, new legislation adopted could lead to discriminatory measures against judges, on grounds of their membership or non-membership of a political party and their political opinions. This communication has been transmitted to the Government for its comments. The Committee hopes that the Government will present its observations on the communication so that the Committee may examine the matter when it resumes its examination of the above-mentioned questions concerning the application of the Convention.

Zambia (ratification: 1979)

Further to its previous comments, the Committee notes with satisfaction that the new Constitution, Act No. 1 of 24 August 1991, no longer makes reference to the United National Independence Party as the only political party and provides that every person in Zambia, whatever his race, place of origin, political opinions, colour, creed, sex, or marital status, is entitled to fundamental rights and freedoms, including freedom of conscience, expression, assembly, movement and association. Therefore there is no longer a legal basis for the application of distinctions, exclusions or preferences in employment and occupation based on political opinion.

The Committee also notes with satisfaction the inclusion in the new Constitution of the terms "sex" and "marital status" amongst the grounds on which discrimination is unlawful under article 23 of the Constitution.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Antigua and Barbuda, Argentina, Austria, Belgium, Benin, Bolivia, Brazil,

Bulgaria, Burkino Faso, Canada, Cape Verde, Central African Republic, Cuba, Dominica, Finland, Ghana, Guinea, Guinea-Bissau, Haiti, Honduras, Iceland, Iraq, Israel, Italy, Jordan, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Malta, Mongolia, Mozambique, Nicaragua, Niger, Panama, Peru, Philippines, Poland, Portugal, Qatar, Sao Tome and Principe, Sierra Leone, Somalia, Sudan, Sweden, Syrian Arab Republic, Trinidad and Tobago, Yemen, Zambia.

### **Convention No. 112: Minimum Age (Fishermen), 1959**

Liberia (ratification: 1960)

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

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)

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

In its previous comments, the Committee 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)

Further to its earlier comments, the Committee notes the Order of 20 November 1990 respecting the medical examination of seafarers, provided by the Government with its report. Since the above Order does not appear to apply to fishermen, the Committee hopes that the draft text which is to cover them will be adopted shortly and will give effect to the provisions of Article 3, paragraphs 1 and 2 (nature of the medical examination), and Article 4, paragraph 2 (period of validity of the medical certificate of persons who have attained the age of 21 years), of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1993.]

\* \* \*

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

**Convention No. 114: Fishermen's Articles of Agreement, 1959**Cyprus (ratification: 1966)

In its previous comments, the Committee referred to the absence of provisions in the national legislation, ensuring the application of the Convention. It notes from the Government's report that there has been no progress in this respect but that efforts are being continued to achieve compliance with the Convention.

In view of the fact that there appear to be difficulties in drafting legislation to give effect to the Convention which was ratified 26 years ago, the Committee suggests that the Government might consider the possibility of requesting the technical cooperation of the International Labour Office.

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

Liberia (ratification: 1960)

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

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.



Panama (ratification: 1970)

In the comments it has been making for several years, the Committee has drawn the Government's attention to the need to adopt measures for the application of Article 3, paragraph 4 (adequate provision in the national law to ensure that the fisherman has understood the agreement) and Article 6, paragraph 3(a), (d), (e), (f), (g) and (i) (particulars to be specified in the agreement) of the Convention. In its successive reports, the Government indicated that a new model fishermen's contract was being prepared and that a preliminary draft Bill for fishermen had been worked out with the cooperation of an ILO expert. This draft took account, in particular, of these provisions of the Convention. In 1988 the Government indicated that the Directorate-General of Consular and Maritime Affairs of the Ministry of Finance and Treasury would take the necessary measures once the system of engagement on board cargo ships had been defined. In its last report, the Government states that the above Directorate has not adopted any model fishermen's articles of agreement and that any such measure must be taken in consultation with the parties concerned.

The Committee hopes that these consultations have begun and that, in its next report, the Government will indicate the progress made in the application of the above-mentioned provisions of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1993.]

**Convention No. 115: Radiation Protection, 1960**General observationIntroduction

1. At its March 1991 Session, the Committee deferred commenting on the application of the Radiation Protection Convention, in view of the impending publication of the 1990 Recommendations of the International Commission on Radiological Protection (ICRP), which were issued in 1991 as ICRP publication 60. These recommendations have a bearing on the application of the Convention, in view of the references to "knowledge available at the time" and "current knowledge", included in Article 3, paragraph 1 and Article 6, paragraph 2 of the Convention.

Reference to available knowledge -  
Article 3, paragraph 1 and Article 6,  
paragraph 2 of the Convention

2. Under Article 3, paragraph 1 of the Convention, "In the light of knowledge available at the time, all appropriate steps shall be taken to ensure effective protection of workers, as regards their health and safety, against ionising radiations". 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 Recommendations of the International Commission on Radiological Protection (ICRP) and other international instruments based on the same Recommendations, such as the ILO Code of Practice on Radiation Protection of Workers (ionising radiations) approved by the Governing Body of the ILO at its 234th Session (November 1986) and the Basic Safety Standards for Radiation Protection jointly sponsored by IAEA, ILO, the Nuclear Energy Agency of the OECD and the WHO, currently under revision in cooperation with the FAO and PAHO.

Functions of dose limits within the system  
of protection against ionising radiations

3. Over the last few decades, there have been significant changes in the Recommendations of the ICRP. These concern both the levels of the dose limits recommended and their purpose and functions within the system of protection recommended by the Commission. Initially, their main function was perceived as the avoidance of directly observable, non-malignant effects; subsequently, the incidence of cancer and hereditary effects caused by radiation was also taken into account, and the annual limit for occupational exposure of the whole body was reduced several times in the light of new physiological findings.

4. In its current Recommendations, the ICRP points out that it must be presumed that even small radiation doses may produce some deleterious health effects. Since there are thresholds for "deterministic" (that is, in the terminology of the ICRP, clinically observable) effects, it is possible to avoid them by restricting the doses to which individuals are exposed. On the other hand, stochastic (random) effects (such as the probability of cancer or genetic detriment) cannot be completely avoided because no threshold can be invoked for them. Thus, the definition and choice of dose limits involve social judgements and cannot be based on health considerations alone.

5. To the ICRP, exposures that are not "unacceptable" in the normal operation of any practice are then subdivided into those that are only "tolerable" and those that are "acceptable", i.e. when the protection has been optimised. In this framework, a dose limit represents a selected boundary in the region between "unacceptable" and "tolerable" (for the situation to which the dose limit is to apply).

6. Accordingly, compliance with the limits on individual doses is no longer regarded as a measure of satisfactory achievement, and the ICRP emphasises the requirement to keep all exposures "as low as reasonably achievable, economic and social factors being taken into account". With regard to the latter factors, the Committee notes

that, while the medical findings of the ICRP are to be regarded, for the purposes of Article 3, paragraph 1 and Article 6, paragraph 2 of the Convention, as representing "current knowledge", the degree to which economic factors may be taken into account under the Convention is determined by the provisions of Article 3(1) which require "all appropriate steps" to be taken to ensure "effective protection" of workers as regards their health and safety.

7. In presenting its 1990 Recommendations, the ICRP notes that in practice, several misconceptions have arisen about the definition and function of dose limits. In the first place, the dose limit is widely, but erroneously regarded as a line of demarcation between "safe" and "dangerous". Secondly, it is also widely and erroneously seen as the most simple and effective way of keeping exposures low and forcing improvements. Thirdly, it is commonly seen as the sole measure of the stringency of a system of protection. By contrast, according to the ICRP's Recommendations, dose limits are only part of a system of radiological protection that is to apply to both proposed and continuing practices and is based on the following general principles.

- (a) The justification of a practice. No practice involving exposure to radiation should be adopted unless its use produces sufficient benefit to the exposed individuals or to society to offset the radiation detriment it causes. If sufficient information is available, the detriment associated with a proposed practice should include that from potential exposures as well as from exposures certain to occur. The process of justification is required, not only when a new practice is being introduced, but also when existing practices are being reviewed in the light of new information about their efficacy or consequences. If such a review indicates that a practice could no longer be claimed to produce sufficient benefit to offset the total detriment, withdrawal of the practice should be considered.
- (b) The optimisation of protection. The process of optimising protection is essentially source-related and should first be applied at the design stage of any project, but also at the operational level. In relation to any particular source within a practice, the magnitude of individual doses, the number of people exposed, and the likelihood of incurring exposures where these are not certain to be received should all be kept as low as reasonably achievable, economic and social factors being taken into account. This procedure should be constrained by source-related restrictions on the doses to individuals (dose constraints, previously called upper bounds), or the risks to individuals in the case of potential exposures (risk constraints), so as to limit the inequity likely to result from the inherent economic and social judgements.
- (c) Individual dose and risk limits. The exposure of individuals resulting from the combination of all the relevant sources and practices should be subject to dose limits, or to some control of risk in the case of potential exposures. These are aimed at "ensuring that no individual is exposed to radiation risks that are judged to be unacceptable from these practices in any normal circumstances." Dose limits are needed as part of the control of

occupational exposure both to impose a limit on the choice of dose constraints (to cover the occasional case where the same individual is employed on several tasks each with its own constraint) and to provide a protection against errors of judgement in the application of optimisation.

#### Basis for ICRP dose limits in occupational exposure

8. In the recent past, the ICRP has used the attributable probability of death or serious hereditary conditions as the basis for judging the consequences of an exposure. This is still a major factor, but is no longer regarded as sufficient to describe the detriment. Other factors which have been considered in the definition of detriment include the length of life lost due to an attributable death and the incidence of non-fatal conditions.

9. When publishing its 1977 Recommendations, the ICRP indicated that for the purposes of radiation protection involving individuals, the mortality risk factor for radiation-induced cancers from uniform whole body irradiation was about  $10^{-2} \text{ Sv}^{-1}$  (that is, an attributable death rate of one per cent for each unit dose expressed as 1 sievert, or 100 rem), as an average for both sexes and all ages. The average risk factor for hereditary effects, as expressed in the first two generations, was taken as about  $4 \cdot 10^{-3} \text{ Sv}^{-1}$ , or four per mille per unit dose of 1 sievert. Differences in total risk between workers and members of the general public, due to the differences in age structure, were not considered sufficiently large to warrant the use of separate values for individual protection purposes. However, in assessing the total population detriment due to radiation from a given exposure, the total risk of hereditary damage in subsequent generations was considered to be about twice that which is expressed in the first two generations only.

10. In 1990, the risks to the individuals were found to be considerably higher than previously indicated. In reviewing the probability of attributable death resulting from occupational exposure, the ICRP has now found the probability of death resulting from regular exposure at an annual dose of 50 mSv (5 rem), corresponding to an approximate lifetime dose of 2.4 Sv, to be 8.6 per cent of the workers concerned. For annual doses of 10 and 20 mSv, corresponding to approximate lifetime doses of 0.5 and 1.0 Sv over a working life, the respective current figures are 1.8 and 3.6 per cent probability of attributable death. The average period of life lost is nearly 13 years for the combination of an additive risk projection model for leukaemia and a multiplicative model for other cancers; for the additive model, the loss is almost 20 years. These attributes relate to mortality. The ICRP has decided to allow for morbidity due to non-fatal cancer and hereditary disorders by using the number of non-fatal conditions weighted for severity and for the period of life lost or impaired. For non-fatal cancers, this weighted number amounts to about 20 per cent of the detriment due to fatalities. The weighted figure for hereditary conditions is considered very uncertain, but is estimated at about 20 per cent of the number of fatalities for workers (about 27 per cent for the whole population).

Current ICRP dose limits in occupational exposure

11. On the basis of the data presented in the preceding paragraph, the ICRP notes that the previously tolerated exposure at a regular annual dose of 50 mSv (5 rem), corresponding to a lifetime effective dose of 2.4 Sv, is probably too high, and would be regarded by many as being clearly so. In particular, the reduction of life expectancy at this level and the fact that there would be a probability exceeding 8 per cent that the radiation hazards in a worker's occupation would be the cause of his death would be widely seen as excessive for a group of occupations many of which are of recent origin and should therefore be setting an example. The ICRP concludes that its dose limit should be set in such a way and at such a level that the total effective dose received in a full working life would be prevented from exceeding about 1 Sv received moderately uniformly, at an annual average of 20 mSv; the ICRP however stresses that the application of its system of radiological protection should be such that this figure would only rarely be approached. With this important reservation, the ICRP now recommends a limit on the effective dose of 20 mSv per year, averaged over five years (100 mSv in five years), with the further provision that the effective dose should not exceed 50 mSv in any single year. Separate annual dose limits are maintained for the lens of the eye (150 mSv) and for the skin (500 mSv over any 1 cm<sup>2</sup>) to prevent deterministic effects from localised exposures.

Limits on intake

12. Under Article 6(1) of the Convention, maxima must also be fixed for the amounts of radioactive substances which can be taken into the body. Annual limits on intake of radionuclides by workers, based on the 1990 Recommendations, are provided by the ICRP as Publication 61 (1991), which lists annual limits on intake (ALIs) through inhalation or ingestion for a range of nuclides, based on a committed effective dose of 20 mSv.

Dose limits for pregnant women  
directly engaged in radiation work

13. Under section 5.4.4, read together with sections 4.1.5 and 4.3.1 of the ILO Code of Practice of 1986, pregnant women engaged in radiation work were included, alongside workers, students, apprentices and trainees between 16 and 18 years of age, in the categories of persons who may only work in conditions "where it is most unlikely that the annual exposure will exceed three-tenths of the dose limits" (Working Condition B). In its current Recommendations, the ICRP states a policy that the methods of protection at work for women who may be pregnant should provide a standard of protection for any unborn child broadly comparable with that provided for members of the general public (which are not to be exposed to more than 1 mSv per year). The ICRP moreover recognises that the unborn child may be more sensitive to the induction of later malignancies. Nevertheless, no special limits are provided on exposure and intake for the women concerned

before pregnancy is declared. Once this declaration has been made, the ICRP considers that the unborn child should be protected by applying a supplementary equivalent dose limit to the surface of the women's abdomen (lower trunk) of 2 mSv for the remainder of the pregnancy and by limiting intakes of radionuclides to about 1/20 of the ALI; no separate reference is made to continuing exposure from previous intake of medium and long-lived radionuclides retained in the body. The ICRP however emphasises that the use of source-related dose constraints usually should ensure compliance with the limit of 1/20 of the ALI, and that the employment of pregnant women should be of a type that does not carry a significant probability of high accidental doses and intakes. Identification of such situations should be determined by regulatory agencies.

#### Dose limits for non-radiation workers

14. Under Article 8 of the Convention, "appropriate levels shall be fixed in accordance with Article 6 for workers who are not directly engaged in radiation work, but who remain or pass where they may be exposed to ionising radiation or radioactive substances". According to section 5.4.5 of the ILO Code of Practice of 1986, the employer has the same obligations towards workers not engaged in radiation work, as far as restricting their radiation exposure is concerned, as if they were members of the public with respect to sources or practices under the employer's control. The dose limits should be those applied to individual members of the public. The annual effective dose equivalent limit for these remains at 1 mSv under the new ICRP Recommendations. However, in the past it was considered permissible to use a subsidiary dose limit of 5 mSv in a year for some years, provided that the average annual dose equivalent over a lifetime did not exceed the principal limit of 1 mSv in a year. Now, the limit is given as 1 mSv per year, averaged over any five consecutive years. Since the values of effective dose may be added to earlier values of effective dose equivalent, the constraints for the optimisation of protection in the design of new installations should be smaller than 1 mSv in a year. To prevent deterministic effects from localised exposures, separate annual dose equivalent limits are fixed for the lens of the eye at 15 mSv (previously 50 mSv) and for the skin at 50 mSv.

#### Scope of occupational exposure

15. In its 1990 Recommendations, the ICRP points out that occupational exposure to which occupational dose limits are applied in practice includes that resulting from minor mishaps and misjudgements in operations and from maintenance and decommissioning in circumstances not necessarily envisaged by the designers. This is an extension of the ICRP's previous concept of dose limits and represents a significant increase in the stringency of its recommendations, regardless of any change in the magnitude of the limits.



Limitation of occupational exposure  
during and after an emergency

16. The Committee recalls that, in its general observation of 1987, it requested Governments which have ratified the Convention to indicate the measures taken or envisaged for intervention in abnormal situations resulting, in particular, from accidents. The Committee notes from the reports received that a large majority of countries have adopted some measures concerning advance preparation for emergency situations. These vary in degree of detail from general measures concerning the notification of accidents to special dose limits fixed for workers trained to intervene in such situations. While the Committee will revert to these matters in individual comments under the Convention, it has re-examined its frame of reference in the light of the new findings of the ICRP.

17. In its general observation of 1987, the Committee referred to the ICRP Recommendations of 1977 and the ILO Code of Practice on Radiation Protection of 1986, which used the concept of a "planned special exposure" which the employer may authorise "only in an exceptional situation, when alternatives not involving such exposure cannot be used" (section 5.8.3 of the Code). According to this concept, the dose equivalents or the committed dose equivalents incurred in the course of planned special exposures should not exceed, in any one case, twice the relevant annual dose limit specified for workers employed in radiation work, and five times this limit over a lifetime (section 5.8.2 of the Code). Planned special exposures should not be permitted for women of reproductive capacity, nor if the worker has previously received abnormal exposures resulting in dose equivalents in excess of five times the relevant annual limit.

18. In the same connection, different stages were set forth concerning the intervention in abnormal situations: a first phase, during the immediate course of a serious incident, and a second phase of remedial action once the initial event has been brought under control. For the first phase of emergency, the wider limits fixed for "planned special exposures" were to apply but even these were held dispensable (without any limit being specified) "when, for instance, it is urgent to rescue injured or trapped individuals, prevent injuries or avoid a substantial increase in the scale of the accident," including, as it was then considered, "the rescue of items of high material value" (section 6.3.3.(1) of the Code). For the second phase, i.e., once the initial event has been brought under control, the remaining remedial work should be carried out while maintaining compliance with the ("normal" occupational) dose equivalent limits, but it was considered that "exceptionally, there may be situations which require consideration of the appropriateness of authorising a planned special exposure for a limited number of individuals to carry out various essential operations, leaving the remainder to be done in compliance with the dose equivalent limits" (section 6.3.2. of the Code). No details were given regarding the nature and scope of these essential operations to be carried out with "planned special exposure" even after the initial event had been brought under control.



19. In its 1990 Recommendations the ICRP no longer includes the notion of a "planned special exposure". Regarding the limitation of occupational exposure in emergencies, the ICRP concludes that occupational exposures directly due to an accident can be limited only by the design of the plant and its protective features and by the provision of emergency procedures. In addition to the exposures resulting directly from the accident, there will be exposures of emergency teams during emergency and remedial action. The benefit of a particular protective action within a programme of intervention after accidents should be judged on the basis of the reduction in dose achieved or expected by that specific protective action, i.e. the dose averted. Thus each protective action has to be considered on its own merits. In addition, however, the doses that would be incurred via all the relevant pathways of exposure, some subject to protective actions and some not, should be assessed. If the total dose in some individuals is so high as to be unacceptable even in an emergency, the feasibility of additional protective actions influencing the major contributions to the total dose should be urgently reviewed. Doses causing serious deterministic effects or a high probability of stochastic effects would call for such a review.

20. The ICRP considers that even in serious accidents, occupational exposures of emergency teams during emergency and remedial action can be limited by operational controls, and that some relaxation of the controls for normal situations can be permitted in serious accidents without lowering the long-term level of protection. This relaxation should not permit the exposures in the control of the accident and in the immediate and urgent remedial work to give effective doses of more than about 0.5 Sv except for life-saving actions, which can rarely be limited by dosimetric assessments. The equivalent dose to the skin should not be allowed to exceed about 5 Sv. Once the immediate emergency is under control, remedial work should be treated as part of the occupational exposure incurred in a practice.

21. These developments reveal a profound dilemma. On the one side, new medical evidence has induced the ICRP to tighten considerably the limits to be imposed on radiation risks that are judged to be unacceptable in any normal circumstances. On the other side, doses of exposure to be tolerated in the control of serious accidents and immediate and urgent remedial work (not counting life-saving actions) have been dramatically increased from an established standard of two times the "normal" annual limit in each case (five times this limit in a lifetime) to doses exceeding, for the whole body, 25 times the current average annual exposure limit of 20 mSv. Moreover, it had been previously established that "planned special exposures" were not to be permitted for workers who had already received "abnormal" exposures in excess of five times the tolerated annual dose-limit; no corresponding provision has been included in the 1990 Recommendations of the ICRP.

22. It thus appears that limitations previously established for "planned special exposures" as a means of protection for emergency work were largely abandoned by the ICRP, in view of the difficulty encountered in practice of affording workers in this manner individual protection where harnessed sources of ionising radiation move out of

control. Clearly, the risks of exposure exceeding many times what is considered tolerable in any normal circumstances need to be dealt with primarily through standards governing the authorisation of practices giving rise to such risks. In addition, however, as long as such practices are allowed to continue, stringent criteria need to be established also for defining the exceptional circumstances in which exposure limits which are normally already bordering on the unacceptable are to be the subject of an unprecedented relaxation.

23. Under the 1990 ICRP Recommendations, two stages of intervention after serious accidents are to be distinguished: a first stage covering "control of the accident" and "immediate and urgent remedial work", for which the ICRP now envisages effective doses of up to 0.5 Sv, that is, 25 times the average annual occupational dose limit; during the same stage unlimited exposure may be foreseen, but exclusively for life-saving actions. In a second stage of remedial work, which is to begin "once the immediate emergency is under control", the normal occupational dose limits are to apply without any exception.

24. While the beginning of the second stage of remedial work, "once the immediate emergency is under control", appears fairly well defined by these very terms, further criteria are needed for distinguishing the first stage of a "serious accident" or an "emergency" from "minor mishaps and misjudgements in operations" and for determining the nature and extent of remedial work which falls into the category of "immediate and urgent remedial work" that is required in the first stage of an emergency and for which the effective protection of workers' health is to be suspended.

25. Adequate protection for the life and health of workers in all occupations is a fundamental right enshrined in the Declaration concerning the aims and purposes of the International Labour Organisation. In examining the observance of basic human rights Conventions in exceptional circumstances, the Committee has always followed the principle that the protection to be afforded under these Conventions can be suspended only in an emergency in the strict sense of the term, that is, a sudden, unforeseen happening liable to endanger the life, safety and health of the whole or part of the population and calling for instant counter-measures to meet this danger; moreover, the duration and extent of any measures affecting in any way the guarantees established in the Conventions, as well as the purposes for which they are used, must be limited to what is strictly required to counter that specific danger. If in an emergency basic human rights such as those protected by the Conventions on freedom of association or the abolition of forced labour can be suspended only to save people's lives, safety and health, then a Convention such as the Radiation Protection Convention, which itself is to protect the life, safety and health of workers, should tolerate no wider exceptions.

26. In particular, if the effective protection of workers' health under the Convention is to be suspended for "immediate and urgent remedial work", that work must be strictly required to meet an acute danger to life and health; exceptional exposure of workers is neither justified for the purpose of rescuing "items of high material value", nor, more generally, because alternative techniques of intervention, which do not involve such exposure of workers, "would

involve an excessive expense". It is therefore essential that no practice which may give rise to an emergency be authorised unless the resources required are made available and used for acquiring the most effective equipment for alternative techniques of intervention avoiding the exposure of workers.

27. As soon as the immediate emergency is under control, normal occupational dose limits must apply to the remaining remedial work, including "decommissioning in circumstances not necessarily envisaged by the designers", in line with the indications referred to in paragraph 15 above (even though this work may also be required to protect in the longer term the health and safety of the population at large).

#### The provision of alternative employment

28. Premature accumulation of lifetime dose. In selecting an occupational exposure limit that is to separate the "tolerable" from the "unacceptable", the ICRP has concluded that the total effective dose received in a full working life should be prevented from exceeding about 1 Sv, received moderately, uniformly, at an annual average of 20 mSv; the ICRP also stressed that the application of its system of radiological protection should be such that this figure would only rarely be approached. In fact, there are a number of instances where the total effective dose received will reach 1 Sv before completion of a full working life: e.g., because of intervention in an emergency, or because of earlier exposure at an annual average of up to 50 mSv, which the ICRP had considered tolerable between 1958 and 1990; before 1958, limits had been set even higher. Moreover, because of the difficulties of responding rapidly to an increase in stringency in operations on plant and equipment already in existence, regulatory agencies may wish to maintain during a transitory period higher annual dose limits than found tolerable by the ICRP. Thus, the question arises whether persons reaching an accumulated effective dose of 1 Sv well before retirement age may continue to work in employment involving exposure to radiation, with detriment normally considered unacceptable.

29. In this regard, it has always appeared difficult to reconcile the professional and economic interests of workers as well as employers with the protection to be ensured under the Convention. Under the 1977 ICRP Recommendations and the 1986 ILO Code of Practice, "planned special exposure" was not to be authorised for a worker who had previously received in excess of five times the relevant annual limit; on the other hand, any excess over the limits specified was not in itself to constitute a reason for excluding a worker from his usual occupation. Under the 1990 Recommendations of the ICRP, the new dose limits for the general public and non-radiation workers, which refer to a five-years average exposure, are to be applied retrospectively; however, for the occupational exposure of radiation workers this is not envisaged.

30. Surprisingly, although the detriment to the individual is calculated on the basis of the total lifetime dose, the ICRP Recommendations do not include a limit on the lifetime effective dose. The ICRP sees difficulties in the practical application of

lifetime limits. These difficulties may relate to the control of misuse such as rapid accumulation of doses at the beginning of the control period; they also concern the interpretation of the limit for a worker who is employed in work involving significant occupational exposure for only part of his working life. In these regards, however, there should be no problems with the concurrent use of both short-term and lifetime limits. Thus, the principal difficulty appears to be that "decisions have also to be taken about the long-term future employment of workers who exceed the lifetime limit."

31. This difficulty can, however, not be avoided by simply ignoring the effectively accumulated individual dose. The detriment considered unacceptable when fixing an annual exposure limit of 20 mSv is based on the accumulated effect of a lifetime dose beyond 1 Sv. Wherever this dose is in practice reached well before retirement age, the question of a change of employment accordingly arises, unless detriment declared unacceptable in any normal circumstances is to be tacitly admitted. Similarly, with regard to occupational exposure in emergencies, the fixing of an exceptional exposure limit of 0.5 Sv, equivalent to 25 average annual dose limits, is based on the explicit assumption that some relaxation of the controls for normal situations can be permitted in serious accidents "without lowering the long-term level of protection". This, however, is only true if in the long term, alternative employment is ensured for workers who exceed an accumulated dose of 1 Sv well before retiring age.

32. The need to find alternative employment for a worker whose continued employment in a particular job is contra-indicated for health reasons is a general principle of occupational health which appears in paragraph 17 of the Occupational Health Services Recommendation (No. 171), 1985, as well as in paragraph 27 of the Radiation Protection Recommendation (No. 114), 1960. Similarly, under Article 11(3) of the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), every effort must be made to provide the workers concerned with suitable alternative employment or to maintain their income through social security measures or otherwise where continued assignment to work involving exposure is found to be medically inadvisable. Article 14 of the Radiation Protection Convention provides that "No worker shall be employed or shall continue to be employed in work by reason of which the worker could be subject to exposure to ionising radiations contrary to qualified medical advice", without spelling out the practical measures which need to be taken to give effect to this principle.

33. In the absence of more specific provisions in the Convention, reference must be made to Article 3, paragraph 1, which requires that in the light of knowledge available at the time, all appropriate steps should be taken to ensure effective protection of workers, as regards their health and safety, against ionising radiations. Workers who have accumulated exposure beyond which detriment considered unacceptable by the ICRP is to occur may be faced with the dilemma that saving their health means losing their employment and thus have a strong incentive to neglect their radiological status and possibly suppress dosimetric evidence. Effective protection of these workers for the purposes of Article 3(1)

may, inter alia, require an offer of suitable alternative employment opportunities.

34. Similarly, under Article 4 of the Convention, activities involving exposure of workers to ionising radiations in the course of their work must be so arranged as to afford the protection envisaged in Articles 5 to 15. Under Article 13 of the Convention, circumstances must be specified, by laws or regulations or otherwise, in which, because of the nature or degree of the exposure, prompt action shall be taken, including any necessary remedial action by the employer, based on technical findings and medical advice. The case of the workers considered in the preceding paragraphs might be dealt with in this framework.

### Conclusions

35. Referring to Articles 3(1) and 6(2) of the Convention, the Committee hopes that governments will review their system of protection of workers against ionising radiations in the light of the findings set out in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP, Publication No. 60). In particular, the Committee hopes that laws, regulations, directives, codes of practice and other instruments in this field, including those governing the granting, review and withdrawal of authorisations for future and ongoing activities giving rise to exposure to radiation, will be re-examined with a view to ensuring, in law and in practice, the effective protection of workers, as regards their health and safety, and that governments will indicate the steps that may have been taken or that are under consideration in relation to the following matters:

- (a) The optimisation of protection, inter alia through the establishment of source-related dose-constraints which should be state-of-the-art for the various industries and operations concerned. For all industries, source-related dose-constraints should in any case ensure that:
  - (i) exposures of workers to radiations from single or combined sources in the course of their work would only rarely approach an annual dose of 20 mSv through external exposure or intake;
  - (ii) external and internal exposures of workers not directly engaged in radiation work, as well as of members of the general public, are to remain below 1 mSv in a year;
  - (iii) where women of child-bearing age are engaged in work involving occupational exposure, the standard of protection provided for any unborn child is to be broadly comparable with that required for members of the general public, taking into account also the fact that the unborn child may be more sensitive to the induction of later malignancies, and that exposure from intake of radionuclides may continue a long time after inhalation or ingestion.
- (b) The fixing of individual dose limits which are to apply to the aggregate occupational exposure from sources external to or internal to the body, including exposure resulting from minor mishaps and misjudgements in operations and from maintenance and

decommissioning in circumstances not necessarily envisaged by the designers. Overall dose limits are not to exceed the following levels:

- (i) for workers directly engaged in radiation work, 20 mSv per year, averaged over five years (100 mSv in five years); the effective dose is not to exceed 50 mSv in any single year;
  - (ii) for workers not directly engaged in radiation work, as for the general public, 1 mSv per year, averaged over any five consecutive years, taking into account also higher previous exposure; a separate annual dose limit for the lens of the eye is now to be set no higher than 15 mSv;
  - (iii) as indicated in (a)(iii) (for source-related dose constraints), the standard of protection for any unborn child is to be broadly comparable with that provided for members of the general public and non-radiation workers. Thus, unless dose limits established for these workers are applied to all women of child-bearing age, it must at least be ensured that any pregnancy be declared without delay. In this regard, employment security and income protection for the women concerned are prerequisites of effective protection. A supplementary equivalent dose limit not exceeding 2 mSv for the remainder of the pregnancy is to apply to the surface of the women's abdomen. Exposure resulting from inhalation or ingestion of radionuclides is to be limited to an annual dose of 1 mSv for pregnant women; in view also of the fact that exposure from previous intake of medium- and long-lived radionuclides may continue throughout the pregnancy, compliance with this limit or intake is normally to be guaranteed through permanent source-related dose constraints. In addition, regulatory agencies are to limit the employment of pregnant women to designated situations and types of employment where the probability of high accidental doses and intakes has been found insignificant.
- (c) The protection against accidents and emergencies, which should encompass the justification of practices which may give rise to emergencies, the optimisation of protection during accidents and emergency work, and a strict definition of emergency tasks for which normal dose limits may be exceeded. Thus, provision should be made in law and practice for the following:
- (i) the review and, pending such review, possible suspension of authorisations previously granted for the use of specific practices or equipment of a kind which has been found unsafe in any one workplace;
  - (ii) the optimisation of protection during accidents and emergency work: in the first place, the design and protective features of the workplace and equipment are to minimise the risks of accidents and consequential exposure to ionising radiations; in the second place, the emergency planning for intervention in any accidents or other emergencies should rely, as far as technically feasible, on advance development and/or acquisition of effective robotized equipment or other techniques avoiding human



- exposure to ionising radiations, and training in the use of such techniques;
- (iii) the strict definition of circumstances in which exceptional exposure of workers, exceeding the normally tolerated dose limit, is to be allowed for "immediate and urgent remedial work"; that work must be strictly limited in scope and duration to what is required to meet an acute danger to life and health; exceptional exposure of workers is neither justified for the purpose of rescuing "items of high material value", nor, more generally, because alternative techniques of intervention, which do not involve such exposure of workers, "would involve an excessive expense".
- (d) The provision of alternative employment opportunities not involving exposure to ionising radiations for workers having accumulated an effective dose beyond which detriment considered unacceptable is to arise.

Finland (ratification: 1978)

The Committee has taken note of the Government's report and the observations made by the Central Organisation of Finnish Trade Unions (SAK) on the application of the Convention, transmitted by the Government without comment.

According to the SAK, there are problems with the supervision of the Radiation Protection Act with regard to nuclear power plants. The SAK indicates that the plants employ many outside workers, particularly for annual maintenance, and that there is a failure to notify these outside workers about radiation doses. The Committee notes that Article 2, paragraph 1, of the Convention provides that the Convention applies to all activities involving exposure of workers to ionising radiation in the course of their work. Furthermore, Article 9 provides that any information necessary concerning the presence of hazards from ionising radiations and adequate instructions in the precautions to be taken for their protection and the reasons therefor shall be provided to the workers. The Committee notes that section 25 of the Radiation Protection Act provides that only a person with the necessary working skills and competence may install, repair and service radiation-generating appliances. It further notes that, under section 36 of the Act, workers shall receive training and guidance respecting their duties in accordance with the nature of the operations and conditions at the workplace in order to ensure adequate prevention of unnecessary exposure to radiation and the risk of occurrences leading to excessive exposure to radiation. The Government is requested to indicate the measures taken or envisaged to ensure that outside workers whose work involves entering establishments in which there are radiation sources, in particular to conduct annual maintenance, are provided with the necessary information and instruction with regard to ionising radiations.

The SAK also indicated that the labour protection delegates and shop stewards do not always receive adequate information about radiation protection. The Government is also requested to indicate the manner in which it is ensured that these workers receive the



necessary information and instruction, in accordance with Article 9 of the Convention.

The Committee is raising other points in a request addressed directly to the Government.

Ghana (ratification: 1961)

I. In comments it has been making for over 15 years, the Committee has noted that protection against hazards due to radiation has only been provided by means of the non-binding Code of Practice for the Protection of Persons Exposed to Ionising Radiations; the Committee had also taken note of the Government's indication that a Radiation Bill was being prepared in order to give legal effect to the Code of Practice. In its previous observation, the Committee noted the Government's indication that the Radiation Bill had still not been adopted, but that it would be given prompt attention upon the re-establishment of the National Advisory Committee on Labour. The Committee notes from the Government's report that there has been no change in the application of the Convention.

The Committee would call the Government's attention to its general observation under this Convention which sets forth the revised system of radiological protection adopted by the International Commission on Radiological Protection on the basis of new physiological findings in its 1990 Recommendations (Publication No. 60). The Committee would recall that, under Article 3, paragraph 1 and Article 6, paragraph 2 of the Convention, all appropriate steps shall be taken to ensure effective protection of workers against ionising radiations and to review maximum permissible doses of ionising radiations in the light of current knowledge. The Government is requested to indicate the steps taken or being considered in relation to the matters raised in the conclusions to the general observation, in particular as regards bringing the Radiation Bill under preparation into conformity with the present state of knowledge.

The Committee hopes that the Radiation Bill with any necessary amendments will soon be adopted and that it also will ensure the application of the following provisions of the Convention which are not covered by the Code of Practice: Article 9, paragraph 2 (instructions to be given to workers as to the precautions to be taken for their health and safety when working with ionising radiations); Article 13(a), (b) and (d) (circumstances under which, due to the nature and/or degree of exposure, workers shall undergo appropriate medical examinations, employers shall notify the competent authority and shall take any necessary remedial action on the basis of the technical findings and the medical advice); and Article 14 (to ensure that no worker is employed or continues to be employed in work involving exposure to ionising radiations contrary to qualified medical advice). The Government is requested to indicate the progress made in these respects.

II. The Government is requested to provide information concerning the methods by which application of the Code of Practice is presently supervised and enforced, as requested under point III of the report form, as well as any relevant extracts from official reports

concerning the practical application of the Convention, as called for under point IV of the report form.

Guinea (ratification: 1966)

1. In 1982, the Committee had noted the Government's indication that a review of the occupational safety and health legislation in force was being undertaken and expressed its hope that new legislation would ensure the application of the Convention to all activities involving exposure to ionising radiations. The Government had indicated in its report for 1988, that regulations for the protection of workers against ionising radiations were being elaborated. In its latest report, the Government indicates that a review of the application in its country of all ratified international instruments is being undertaken and that a systematic updating of the relevant texts is planned. The Committee can only once again express the hope that the necessary measures will be taken without further delay so as to ensure that full effect is given to the Convention. The Government is requested to indicate, in its next report, the progress made in this regard.

2. The Committee would draw the Government's attention to its general observation under this Convention and requests the Government to indicate the steps taken or being considered in relation to the matters raised in the conclusions.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Barbados, Belgium, Belize, Belarus, Czechoslovakia, Denmark, Djibouti, Ecuador, Egypt, Finland, France, Greece, Guyana, India, Iraq, Italy, Japan, Lebanon, Mexico, Netherlands, Nicaragua, Norway, Poland, Russian Federation, Sri Lanka, Switzerland, Syrian Arab Republic, Turkey, Ukraine, United Kingdom.

**Convention No. 117: Social Policy (Basic Aims and Standards), 1962**

Requests regarding certain points are being addressed directly to the following States: Bahamas, Bolivia, Central African Republic, Guinea, Jamaica, Kuwait, Nicaragua, Panama, Paraguay, Syrian Arab Republic, Venezuela.

**Convention No. 118: Equality of Treatment (Social Security), 1962**

Central African Republic (ratification: 1964)

1. With reference to its previous comments, the Committee has taken note of the information supplied by the Government in its report

received in May 1991 and of the discussions held in the Conference Committee in June 1991. It notes, however, that no progress has been made with regard to the questions it has been raising since 1968.

In the information supplied to the Conference Committee, the Government emphasised that the difficulties of applying the Convention were linked to the fact that the laws of all the countries of the region were limited in their application to the territories concerned and made the payment of all social benefits conditional upon residence. In the Government's opinion, it was necessary to conclude reciprocity agreements in order to resolve the difficulties arising in connection with the payment of benefits abroad, so as to ensure the effective application of Convention No. 118. The Government referred in that context to the negotiations under way with a view to the conclusion of social security agreements both bilaterally (in particular with the Congo and Zaïre) and multilaterally (draft social security convention at the level of the Central African Customs and Economic Union, and possible ratification of the Air Afrique Convention).

The Committee wishes to point out to the Government once again that under the Convention equality of treatment in social security and in particular the payment of long-term benefits in case of residence abroad must be ensured automatically whatever the country of residence, even in the absence of bilateral or multilateral agreements. As to the difficulties mentioned by the Government as likely to occur in making payments abroad (verification of the victim's state of health, the status of dependant, etc.), the Committee considers that these could be resolved through the administrative assistance which States should afford each other under Article 11 of the Convention. However, the Committee has noted with interest from the Government's report that draft texts have been prepared by the Labour Department to bring national law and practice into conformity with the Convention and that the constitutional procedure for the adoption of those texts is in progress. It therefore hopes that these texts will be adopted shortly so as to bring the national law into full conformity with the Convention on the following points:

Article 4 of the Convention (branch g: employment injury benefit). Section 27 of Act No. 65-66 of 24 June 1965 on industrial accident compensation should be supplemented by an express provision that dependants (survivors) of the victim of an occupational injury who was a national of a State bound by the Convention, who were not resident in the Central African Republic at the time of the victim's death and who continue not to be resident therein, may claim survivors' benefit if it is proved that they were actually dependent on the victim at the time of his death.

Article 5 (branch e: old-age benefit). The national law should be supplemented by a provision for the payment of old-age benefit in case of residence abroad both to nationals of the Central African Republic and to nationals of any other member State that has accepted the obligations of the Convention for branch (e) (old-age benefit) (i.e. up to the present date: Barbados, Brazil, Cape Verde, Guinea, Iraq, Israel, Italy, Kenya, Libyan Arab Jamahiriya, Mauritania,

Mexico, Netherlands, Rwanda, Syrian Arab Republic, Tunisia, Turkey, Venezuela and Zaire).

The Committee hopes that the Government's next report will contain detailed information on the progress made in that respect. It ventures to suggest to the Government the possibility of having recourse to the expertise of the ILO through its technical cooperation activities.

2. The Committee again asks the Government to supply a copy of the text of Ordinance No. 81/024 of 16 April 1981 establishing the old-age, invalidity and survivors' pension scheme for employees, and of Decree No. 83/340 of 10 August 1982 issued under it.

[The Government is asked to report in detail for the period ending 30 June 1993.]

France (ratification: 1974)

The Committee notes that the Government's report contains no further information with reference to its previous comments. It must therefore repeat its previous observation which read as follows:

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.)

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

Guinea (ratification: 1967)

Article 5 of the Convention. With reference to its previous comments, the Committee notes with interest the information supplied by the Government in its reports received in March 1991 and January 1992, that the draft Social Security Code prepared with ILO technical assistance, which should make it possible for effect to be given to Article 5 of the Convention (the provision of certain benefits abroad), has been submitted to the Council of Ministers for approval and should be adopted very shortly.

The Committee also notes the Government's statement that, pending the adoption of provisions to facilitate the payment of benefits abroad, currently a lump sum equivalent to 36 months' wages and freely convertible into foreign currency is paid locally. In this connection, the Committee wishes to draw the Government's attention to the fact that the payment of a lump sum in the event of transfer of residence abroad, instead of periodic payments, is not fully consistent with Article 5 of the Convention which provides for the payment of the benefits concerned when the beneficiary resides abroad, and not their conversion into a lump sum. The Committee therefore hopes that the draft Social Security Code will be adopted shortly and that it will contain provisions which explicitly give effect to Article 5 of the Convention. It asks the Government to provide information on progress made in this respect, and on any measures taken to ensure the application of this provision of the Convention in practice, regardless of the existence of any legislation on foreign exchange control.

Article 6. The Committee hopes that the draft Social Security Code mentioned above will also ensure the application of Article 6 of the Convention under which each State which has accepted the obligations of this Convention in respect of family benefit shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other State which has accepted the obligations of this Convention for this branch, and to refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned.

[The Government is asked to report in detail for the period ending 30 June 1993.]



Iraq (ratification: 1978)

Article 5 of the Convention (provision of benefits abroad). The Committee recalls that the national legislation - the Workers' Pension and Social Security Law No. 39 of 1971 and Instruction No. 2 of 1978 regarding the payment of social security pensions to insured persons leaving Iraq - contains numerous restrictions concerning payment of benefits abroad for Iraqi nationals as well as for foreign nationals, which are contrary to this provision of the Convention. Consequently, it hopes that the Government would be able to indicate measures taken or contemplated to remove these restrictions in the light of the more detailed comments contained in the Committee's direct request. The adoption in the near future of measures ensuring, without ambiguity or restrictions, the provision of long-term benefits in case of residence abroad for Iraqi nationals and for nationals of other countries which have accepted the obligations of the Convention in respect of the branch in question as well as for refugees and stateless persons is all the more necessary having regard to the fact that during 1990 and thereafter many workers have left Iraq, as confirmed by the statistics communicated by the Government.

The Committee refers also to its observation in respect of Convention No. 19.

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

Italy (ratification: 1967)

Articles 3, 5 and 10, paragraph 1, of the Convention (branch e: old-age benefit). In reply to the Committee's previous comments concerning the nature of the "social pension" to which Italian citizens are entitled who are above the age of 65 years and who satisfy certain means criteria, under the terms of article 26 of Law No. 153 of 30 April 1969, the Government maintains its position according to which this pension, being entirely financed by the State, has the character of an assistance payment and therefore falls outside the scope of social security. In this situation the Committee cannot but once again draw the Government's attention to the fact that the "social pension" in question has to be considered as falling under the purview of the Convention since the payment of this benefit is automatically guaranteed if the required condition of the means test is satisfied; it is therefore not a benefit excluded from the scope of the application of the Convention, but is a non-contributory social security benefit of the type indicated in Article 2, paragraph 6(a), of the Convention.

The Committee has nevertheless noted with interest that, according to the information supplied by the Government, problems related to the nature of the "social pension" are now the subject of the discussion at the level of the European Community and also that the reorganisation of the whole system of pensions is under way at the national level. It therefore once again expresses the hope that the Government will reconsider its position in regard to the nature of the

social pension with a view to applying the Convention and that it will indicate progress made in this respect in its next report.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Libyan Arab Jamahiriya (ratification: 1975)

For many years the Committee has been drawing the Government's attention to certain points concerning the application of various provisions of the Convention. In its latest report, which refers to the report of the National Commission set up to examine international labour Conventions and Recommendations, the Government states that the Committee's observations will be answered in due course by the adoption of the provisions concerning the Social Security Fund. The Committee takes note of this information. It recalls, however, that in its previous report received in March 1988 the Government stated that the Commission in question had completed the examination of the Committee's observations and recommended that the competent authorities should take them into account. The Committee hopes that the Government will shortly be able to take the necessary measures to ensure full application of the Convention on the following points:

1. Article 3, paragraph 1, of the Convention (also in conjunction with Article 10).
  - (a) Under section 38(b) of Social Security Act No. 13 of 1980 and regulations 28 to 33 of the Pension Regulations of 1981, non-Libyan residents receive only a lump sum in the event of premature termination of work whereas nationals are guaranteed, under clause (a) of section 38 of Act No. 13, maintenance of their wages or remuneration, which is contrary to this provision of the Convention. The Committee asks the Government to indicate the measures taken or envisaged to amend the above provisions in order to ensure for nationals of States for which the Convention is in force (and for refugees and stateless persons) the same benefits as nationals in case of premature termination of work.
  - (b) Under regulations 5 and 8 of the Regulations concerning registration, contributions and inspection issued under Social Security Act No. 13 of 1980, the affiliation of non-Libyan officials and self-employed workers to the social security scheme is voluntary unless there is an agreement with the country of which these workers are nationals. The Committee again draws the Government's attention to the fact that where, as in the Libyan Arab Jamahiriya, the affiliation of nationals to the social security scheme is compulsory, the voluntary affiliation of certain categories of foreign workers to the social security scheme is contrary to the principle of equality of treatment laid down in Article 3, paragraph 1 (subject to the exceptions provided for in Article 10, paragraph 2). The Committee asks the Government to indicate the measures taken or contemplated to ensure for these categories of foreigners, when they are nationals of a State for which the Convention is in force, and also for refugees and stateless persons, compulsory affiliation to the social security scheme.

(c) Under regulation 16, paragraphs 2 and 3, and regulation 95, paragraph 3, of the Pensions Regulations of 1981, non-national contributors, without prejudice to special social security agreements, who have not completed a period of ten years' contributions to the social security scheme (years that may be supplemented, where appropriate, by years of contributions paid to the social insurance scheme) are entitled neither to an old-age pension nor to a pension for total incapacity due to an injury of non-occupational origin. Furthermore, regulation 174, paragraph 2, of these Regulations seems to imply a contrario that the qualifying period is also required for pensions and allowances due to survivors of the deceased person by virtue of Title IV of the Regulations, when death is due to a disease or an accident of non-occupational origin. Since such a qualifying period is not required for insured nationals, the Committee points out that the above-mentioned provisions of the Pension Regulations of 1981 are incompatible with Article 3, paragraph 1, of the Convention. The Committee accordingly requests the Government to indicate the measures taken or contemplated to ensure the application of this provision of the Convention on this point as well.

2. Article 5. Regulation 161 of the 1981 Pension Regulations provides that pensions or other monetary benefits may be transferred to beneficiaries resident abroad without prejudice, where appropriate, to agreements to which the Libyan Arab Jamahiriya is a party. The Committee points out that, by virtue of this provision of the Convention, each Member that has ratified it must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, when they are resident abroad, the provision of invalidity benefits, old-age benefits, survivors' benefits and death grants, and also employment injury pensions. The Committee requests the Government to indicate in its next report the measures taken or envisaged to give effect in law and practice to this basic provision of the Convention.

The Committee hopes that the Government's next report will contain detailed information on the progress made in ensuring full application of the above-mentioned provisions of the Convention. It ventures to draw the Government's attention to the possibility of seeking the technical cooperation of the International Labour Office to find a solution to the difficulties encountered.

In addition the Committee draws the Government's attention to certain points which it is raising in a direct request.

[The Government is asked to report in detail for the period ending 30 June 1993.]

#### Suriname (ratification: 1976)

Article 5 of the Convention (branch g: employment injury benefit). In the previous comments that it has been making for a number of years the Committee drew the Government's attention to the fact that section 6, subsection 8, of the Accidents Regulations

(Decree No. 145 of 1947) as amended by Decree E-38 of 20 January 1983 is not in conformity with the Convention in so far as it provides only for the possibility for a beneficiary to request the conversion of his employment injury pension into a lump sum if he transfers his residence abroad before the expiry of a three-year period from the date of the accident. In fact under this provision of the Convention employment injury pensions must continue to be paid without restriction where the beneficiary, whether a national of Suriname or of any State that has accepted the obligations of the Convention in respect of this branch, transfers his residence outside the territory.

In its previous reports the Government had indicated that a draft Decree amending the Accidents Regulations was prepared taking into account the observations of the Committee. It had also referred to an ILO/UNDP project on the introduction of a social security scheme under which a draft Social Security Act was elaborated; section 25(1)(g) of this draft specifies that "regulations may provide for the treatment of benefit entitlement for persons no longer ordinarily resident in Suriname". In its last report, however, the Government states only that an interdepartmental committee is advising the Ministry of Social Affairs on the draft social security system.

The Committee notes this information. It believes that, pending the introduction of the social security system, the Government should have no difficulty in giving full effect to this provision of the Convention by expressly removing all restrictions on payment abroad of periodical benefits payable in cases of permanent disability, even if the degree of incapacity is still subject to review (but without prejudice to any measures that might be taken, in particular within the framework of arrangements and agreements contemplated by Articles 9 and 11 of the Convention in order to avoid cumulation of benefits and provide for checking of the condition of injured persons resident abroad).

Consequently the Committee again expresses the hope that the necessary measures will be adopted soon in order to repeal section 6, subsection 8, of Decree No. 145 of 1947. It also hopes that machinery will be provided to ensure in law and in practice the payment of employment injury pension in the event of residence abroad, and that the Government will indicate any progress made in this respect and with regard to the adoption of the draft Social Security Act.

In addition, the Committee once again requests the Government to specify the laws, regulations or other provisions whereby the payment of employment injury pensions abroad is guaranteed to injured persons after the above-mentioned three-year period provided for by the Accident Regulations has expired as well as to the dependants of injured persons where they are resident abroad.

[The Government is asked to report in detail for the period ending 30 June 1993.]

#### Syrian Arab Republic (ratification: 1963)

1. Article 5 of the Convention. The Committee notes from the Government's reply to its previous comments that there has been no progress regarding the adoption of the draft Decree to amend section

94 of the Social Insurance Code which the Government communicated in 1984. The draft Decree provides that the beneficiary of a pension, his dependants or the dependants of the insured person, who leave the territory of the Syrian Arab Republic, may require that the pension to which they are entitled be transferred to the country in which they reside. Consequently, the Committee is bound to reiterate the hope that the above-mentioned draft text will be adopted shortly. It asks the Government to report on progress made in this respect.

2. Article 10. With reference to its previous comments, the Committee notes that the draft of a new social insurance law to provide for a single insurance system for all workers is still being examined. It once again expresses the hope that the Government will have no difficulty in including a provision in the new law, which stipulates explicitly that it applies to refugees and stateless persons, in conformity with this Article of the Convention.

3. Furthermore, the Committee takes note of certain statistics supplied by the Government in its report concerning Syrian nationals working abroad.

[The Government is asked to report in detail for the period ending 30 June 1993.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Cape Verde, Central African Republic, Ecuador, Guinea, Iraq, Italy, Jordan, Kenya, Libyan Arab Jamahiriya, Madagascar, Mexico, Norway, Tunisia, Turkey, Uruguay, Venezuela, Zaire.

### Convention No. 119: Guarding of Machinery, 1963

Ghana (ratification: 1963)

The Committee has taken note of the Government's report and of the information supplied to the Conference Committee in 1990.

Articles 1 and 17 of the Convention. In its previous comments, the Committee noted that measures had not yet been adopted to give effect to the Convention in agriculture, forestry, road and rail transport and shipping.

The Commission noted that the Government was going to hold consultations with the ministries and sectors concerned in order to obtain their views, after which the Tripartite National Advisory Committee on Labour would consider the matter.

The Committee notes that the Government's latest report does not contain any information on this question. Since it has been the subject of comments for several years and assurances have been given by the Government on several occasions, the Committee hopes that the necessary action will at last be taken to ensure the guarding of machinery in the sectors concerned and that the Government will soon supply specific information on the progress made to that end.

Sierra Leone (ratification: 1964)

The Committee notes with regret that, for the fourth consecutive year, 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: Denmark, Iraq, Malta.

**Convention No. 120: Hygiene (Commerce and Offices), 1964**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. The Committee trusts that this Order will be adopted in the near future and that it will give full effect to the provisions of the Convention.



Senegal (ratification: 1968)

In comments it has been making since 1972, the Committee has noted the Government's indication that the regulations concerning the health and safety of workers would be revised in order to give effect to Article 14 of the Convention (the provision of suitable and sufficient seating for all workers) and Article 18 (the reduction of noise and vibrations likely to have a harmful effect on workers).

The Committee notes the information provided in the Government's latest report that a draft decree concerning general safety and health measures applicable in all establishments has been submitted to the President of the Republic for signature. It notes from the Government's report that this decree shall ensure that a suitable chair be provided for each worker whenever the work carried out is compatible with a continuous or intermittent sitting position and that, where this is not the case, a sufficient number of chairs will be made available near the workstation and the use of these chairs must be authorised whenever it is compatible with the work carried out. The Government has indicated that an internal circular shall determine the manner in which this rule shall be applied. The Committee would recall that Article 14 further provides that workers shall be given reasonable opportunity to use the chairs supplied to them. It therefore hopes that, workers who may be involved in work not considered to be compatible with the sitting position be nevertheless assured a reasonable opportunity to sit down.

The Committee trusts that the draft decree concerning general safety and health measures will be adopted in the near future and that it will ensure the application of Articles 14 and 18. It also hopes that the decree will give such effect as may be possible and desirable under national conditions to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120), in accordance with Article 4(b) of the Convention. The Government is requested to provide information on the progress made in this regard in its next report and to provide the office with a copy of the decree as soon as it is adopted.

\* \* \*

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

**Convention No. 121: Employment Injury Benefits, 1964**  
**[Schedule I amended in 1980]**

Bolivia (ratification: 1977)

1. Article 5 of the Convention. The Committee has taken note of the statistics of insured persons supplied by the Government. The Committee observes that, according to that information, the total number of active insured persons employed in industrial undertakings as defined in Article 1, subparagraph (c), of the Convention is approximately 70,000. Since the Government has availed itself of the



temporary exception provided for in Article 5 of the Convention, the Committee must again point out to the Government that, in order to be able to assess whether the requirements of this provision of the Convention are met, it also needs to know the total number of employees in industrial undertakings. It consequently hopes that the Government will be able to supply all these statistics in its next report.

Furthermore the Committee points out that under the said Article 5 the application of national legislation concerning employment injury benefits may be limited to "prescribed categories of employees, which shall total in number not less than 75 per cent of all employees in industrial undertakings ...". In this connection the Committee has noted from the information given in the ILO Year Book of Labour Statistics, 1991, that, for the sectors of construction, transport, storage and communications alone, the total number of employees was 118,400 in 1989. The proportion of protected employees working in industrial undertakings is thus less than the proportion prescribed by the Convention. In these circumstances the Committee expresses the hope that the Government will be able to indicate in its next report the measures taken or contemplated gradually to extend the employment injury branch of the social security scheme to new categories of wage-earners in industrial undertakings.

Article 7. In response to the Committee's previous comments concerning commuting accident coverage, the Government refers in particular to section 7 of Legislative Decree No. 14643 of 3 June 1977 concerning benefits in case of non-industrial injury. Furthermore it indicates that in case of an accident the cost of the benefit is normally borne by the person who caused the injury (for example, the driver of the vehicle). Furthermore in practice, when the injuries resulting from a non-occupational hazard do not involve the insurance institution in heavy expense, the benefits are covered as though it was a case of industrial accident.

The Committee takes note of this information. It wishes to point out to the Government, however, that under the Convention the benefits due in case of an industrial accident or occupational disease, including commuting accidents, must be granted whether or not any third person bears any liability (without prejudice to any recourse against such a person). Furthermore, under the Convention, the granting of such benefits to the insured person or his dependants must not be made conditional upon any waiting period. Hence the obligations prescribed by the Convention cannot be met by a system of sickness, invalidity and survivors' insurance which, as in Bolivia, makes the acquisition of entitlement to benefit and the amount of benefit subject to completion of a period of membership or subscription.

In these circumstances, the Committee again expresses the hope that the Government will be able to re-examine the question so as to supplement the definition of "industrial accident" laid down in section 27 of the Social Security Code and section 115 of the Regulations thereunder to include a commuting accident, in accordance with Article 7 of the Convention.

Article 8. In its previous comments, the Committee asked for the supply of the circulars which, according to the Government, had been

addressed to the agencies administering social security in order to bring to their notice the list of occupational diseases prescribed by schedule I of the Convention. In its report, the Government states that the adoption of such circulars was unnecessary because Presidential Decree No. 14228 of 23 December 1976 for the adoption and ratification of Convention No. 121 was published in the Official Gazette of Bolivia, which is a medium for broad dissemination of the country's national standards. In this connection the Committee ventures to remind the Government that the Multidisciplinary Committee established by Presidential Resolution No. 193458 of 5 November 1980 provides among other recommendations that the list of occupational diseases shown in Annex 1 to the Social Security Code and the Regulations thereunder should undergo immediate revision in as much as it is outdated. These recommendations, which go back more than ten years, make no reference to the list of occupational diseases annexed to Convention No. 121. In these circumstances, in order to preclude any risk of confusion in the quarters concerned regarding the content of the law on compensation for occupational diseases, the Committee considers that it would be desirable, on the occasion of a forthcoming revision or publication of the Social Security Code, to publish an up-to-date list of occupational diseases and activities likely to cause them, in conformity with schedule I annexed to the Convention.

Article 9, paragraph 3. In its previous comments, the Committee expressed the hope that the Government would supply the text of all provisions of laws, regulations or other texts specifying the nature of the medical care provided in accordance with section 11 of Decree No. 14643 of 1977 at the specialised centres of the Ministry of Social Security and Public Health, together with the conditions to be met, in order to qualify for such benefits, by persons ceasing to be entitled to medical care provided through social security. Since the Government refers in its reply only to the provisions of Chapter II of the Social Security Code concerning benefits in kind, the Committee can but ask the Government once again to supply the information requested.

Articles 13, 14 and 18 (in conjunction with Articles 19 and 20).  
(a) The Committee takes note with interest of the text of Presidential Decree No. 20991 of 1 August 1985 which increases the amount of temporary incapacity benefit in case of an industrial accident to 90 per cent of the insured person's wage which is subject to contributions at the start of incapacity.

(b) Furthermore the Committee notes that the Government's report does not contain the statistical information which it previously requested and which it needs in order to determine whether the amount of benefit paid to the standard beneficiary in case of temporary incapacity, permanent total incapacity or death reaches the level prescribed by the Convention. It has, however, noted with interest the Government's statement in its report on Convention No. 130 that it intended to ask the help of the ILO Regional Adviser on Social Security for Latin America on this point. The Committee therefore hopes that the Government will be able to supply with its next report the information requested by the report form adopted by the Governing Body under Article 19 or 20, depending on which of these provisions is resorted to.

Article 21. The Committee again asks the Government to supply with its forthcoming reports the information requested under this Article of the Convention by the report form concerning the review of the benefits provided for in Articles 14 and 18 as a result of substantial changes in the cost of living.

2. The Committee ventures to remind the Government of the possibility of having recourse to the technical cooperation of the ILO to help it in finding a solution to the problems arising out of the application of the Convention.

Libyan Arab Jamahiriya (ratification: 1975)

The Committee takes note of the Government's report. It notes with regret that the Government confines itself to indicating that the Committee of Experts has not made any observation requiring amendment of the laws in force. The Committee points out that it has for many years been drawing the Government's attention to the need to take measures to ensure the application of certain parts of the Convention and to supply additional information on a number of points so as to enable it to assess how the Convention is being applied both in law and in practice. It consequently trusts that the Government's next report will contain detailed information on the points it is raising again in a request addressed directly to the Government.

The Committee ventures to draw the Government's attention to the possibility of requesting the technical assistance of the ILO.

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

Senegal (ratification: 1962)

Article 8 of the Convention. The Committee notes with interest the Government's statement that the points the Committee raised in its previous comments concerning the list of occupational diseases established by Order No. 9364bis of 14 November 1958 (as amended by Order No. 5199 of 18 April 1960) have been taken into consideration in the adoption of a Ministerial Order which the Government says it has transmitted. Since the text of the Ministerial Order in question has not been received at the ILO, the Committee asks the Government to be kind enough to send another copy.

\* \* \*

Requests regarding certain points are being addressed directly to the following States: Libyan Arab Jamahiriya, Venezuela.

**Convention No. 122: Employment Policy, 1964**Algeria (ratification: 1969)

1. The Committee notes the Government's report for the period ending 30 June 1990 and the information supplied in reply to its previous comments.

2. In its observation of 1990, the Committee referred to various constraints (the economic crisis, the level of investments and demographic pressure) which were creating an imbalance on the labour market and requested information on the achievement of employment objectives in the five-year period 1985-1989. The Government's report describes an achievement rate of 40 per cent for the objective of creating jobs (of which one half were in the administrative sector) during the above period. In 1989, the labour force survey indicated that the unemployment rate for the active population was around 20 per cent, and this rate could now be around 25 per cent. The category most affected by this situation is young persons seeking their first job.

3. The Committee notes with interest the priority given by the plan to the human resources development and the information supplied on the Government's action programme, particularly as regards policies in the fields of investment, the labour market, education, training and special youth programmes. A request for further information is being addressed directly to the Government on the implementation of the employment policy measures that have been taken or are envisaged.

4. The Committee hopes that the Government will continue to give all due attention to declaring and pursuing, "as a major goal", an "active policy" designed to promote employment, in the sense of the Convention, which takes due account of the mutual relationships between employment objectives and other economic and social objectives. In this connection, as suggested in Recommendation No. 122, the attainment of the social objectives of employment policy should be coordinated in particular with measures affecting investment, production and economic growth, the growth and distribution of incomes, social security, fiscal and monetary policies and the free movement of goods, capital and labour (Annex to Recommendation No. 122, Paragraph 2).

Australia (ratification: 1969)

1. The Committee has taken note of the Government's detailed report for the period ending June 1990, which contains replies to its previous observation. It notes that the rapid growth of employment continued during the period under consideration; total employment increased by 3.8 per cent in 1989-90, particularly to the advantage of women. Despite the increase in already high participation rates, the unemployment rate was reduced from 7.3 per cent in June 1988 to 6.4 per cent in June 1990. However, the Government mentions in its report a slow-down in economic growth at the beginning of 1990. This trend, inimical to employment, has grown more marked since the end of the period covered by the report, and the recession that began in mid-1990

has led to a swift increase in the unemployment rate, which according to OECD was close to 10 per cent by mid-1991.

2. The Committee notes the full information supplied by the Government concerning the objectives of its economic policy in relation to employment. The thrust of budgetary and monetary policy has been to reduce inflation and public indebtedness in the medium term; fiscal policy is designed to create a favourable environment for investment and employment, whereas price and incomes policy continues to aim, pursuant to the agreement between the federal Government and the Australian Council of Trade Unions (ACTU), at wage moderation, labour flexibility and improved productivity. The Committee further notes with interest the far-reaching current reform of wage-fixing methods: applying the "Structural Efficiency Principle", the Australian Industrial Relations Commission has undertaken an overhaul of the system of industrial awards designed to eliminate impediments to the mobility and qualification of workers so as to afford them access to more varied, more fulfilling and better-paid jobs. The Committee would be grateful if the Government would supply in its next report any available assessment of the effect which the changes in the wage fixation system have had on the employment market.

3. As part of its labour market policy, the Government has endeavoured to strengthen the vocational training provided by undertakings and by education and training institutions. The Government's expenditure on training has been increased and the Training Guarantee Act 1990 now places undertakings under an obligation to allocate a certain level of expenditure to financing approved training activities. The Committee notes further the information given concerning training programmes to encourage integration or reintegration in the labour market, supplied by the Government in its report on the application of the Human Resources Development Convention, 1975 (No. 142). The Committee would be grateful if the Government would continue to supply information on the development of these programmes and their effects on the employment of the categories of persons concerned.

4. The Committee has taken note of the information concerning objectives designed to promote reform of the labour market and structural adjustment in industry through action on the practices of labour and management, the organisation of work, and industrial relations. It has also taken note of the initiative which was announced in the Government's economic policy statement of February 1990 and which is designed to restructure measures of aid to the unemployed and to institute reform of employment programmes. The Committee would be grateful if the Government would supply information on the follow-up of these reform programmes. More generally it hopes, having regard to the recent developments in the employment market situation referred to above, that the Government will state in its next report whether it has proceeded under Article 2 of the Convention to re-examine, within the framework of a coordinated economic and social policy, the measures to be adopted in order to promote full, productive and freely chosen employment, as a major goal in accordance with Article 1.

Belgium (ratification: 1969)

1. The Committee has taken note of the Government's two successive reports dealing with the period ending June 1990 and of the attached documentation. As usual the Government has supplied an exhaustive collection of information dealing with various aspects of its economic policy and in particular with employment policy measures.

2. The Committee notes that the trend towards an improvement in the general employment situation to which it drew attention in its previous comments was confirmed in the course of the period under review. The high growth rate of economic activity made it possible for employment to grow steadily and for the unemployment rate to continue to decline; according to the OECD standardised rates, the unemployment rate was 7.9 per cent in 1990. The Committee notes in particular the significant reduction in the unemployment rate among young people. It nevertheless observes that serious structural problems persist. There are still substantial regional disparities in the situation and trends of employment and unemployment: the decrease in unemployment essentially benefits Flanders, where the unemployment rate is half that in Wallonia. Long-term unemployment continues to account for nearly two-thirds of total unemployment and affects older workers, women and the least-skilled in particular. The decline in unemployment among men is greater than that in unemployment among women, which is tending to increase in relative terms. Furthermore the combination, in a context of growing economic activity, of a decline in unemployment and a heavy increase in the number of unfilled job vacancies is a sign of imbalance between the structures of supply and demand on the labour market.

3. The Government gives details in its report of the various measures designed to bring the labour market into balance, paying particular attention to the problem of structural unemployment. In essentials those measures aim, in the first place, to increase the supply of employment, especially for the benefit of young people and the long-term unemployed, through programmes of financial incentives for recruitment or temporary assignment to tasks in the public interest; in the second place they aim to reduce the demand for employment by reducing the length of economically active life through a system of early retirement, by encouraging flexible working time, by promoting leaves of absence; or again by increasing the duration of compulsory schooling.

4. The Committee notes that the social partners, in adopting the inter-occupational agreement for the period 1989-90, agreed to give priority, in making allocations from the Employment Fund, to the training and integration of young people and jobseekers who experienced particular difficulty in fitting into the labour market. It observes, however, that, according to the Government, special employment programmes (unemployed persons put to work, special setting for work, third work circuit, traineeships for young people) have made only a limited contribution to the reduction of unemployment, which is mainly due to the combined effects of improving economic activity and declining population trends. With reference to measures which affect the flexibility of labour, the Government states that it is impossible to give a precise picture of their effect on employment and that they



have probably made it possible to divide up the available jobs among a greater number of workers but at the risk of a proliferation of precarious situations. The Committee notes further that the reduction in unemployment has been secured at the cost of keeping employment rates relatively low. It would be grateful if the Government would indicate in its next report whether the population trends and the attendant risks of manpower shortages are not likely, in the long run, to call into question programmes encouraging withdrawal from the labour market.

5. With reference to its previous observation, the Committee hopes that the Government will be in a position to supply in its next report a summary of the available information on the effect produced on employment by the various measures of economic and social policy and labour market policy described.

Bolivia (ratification: 1977)

1. The Committee takes note of the information supplied by the Government in reply to its previous comments. The Government recalls that, in order to maintain and consolidate its monetary stabilisation policy, initiated at the end of 1985, while meeting the commitments of its external debt contracted in the seventies, it is implementing economic measures to reduce unemployment and open underemployment, which are consistent with national legislation and the standards of the Convention, and the proposals set out in the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). Under the Emergency Social Fund, 1,932 projects for social assistance, basic urban services, economic infrastructure and production support were carried out in the second half of 1988, involving a total investment of 92,211 dollars and 19,892 persons. As regards the workers affected by structural adjustment measures, the Government states that many of them joined the informal sector. The Government also refers to a new Act respecting investment, promulgated on 17 January 1990 which, it hopes, will generate employment, as it considers that employment is directly linked to the investment of capital.

2. In view of the unemployment rate published by the ILO in the Year Book of Labour Statistics (an estimated 20 per cent in 1989 and 19 per cent in 1990), the Committee can but hope that the Government's efforts will succeed in creating productive employment. The Committee wishes to recall, as it has in earlier comments, that Paragraph 37(h) of Recommendation No. 169 proposes that, when adopting structural adjustment measures, governments should take into account the promotion of employment and the satisfaction of the basic needs of the population. They should declare and pursue "as a major goal", an active policy designed to promote full, productive and freely chosen employment (Article 1, paragraph 1, of the Convention). The Committee would be grateful if, in its next report, the Government would indicate how such a policy has been formulated, specifying the texts in which it has been defined, and describe the procedures adopted to ensure that the effects on employment of measures taken to promote economic development receive due consideration at both the planning and the implementation stages (Article 2).



3. In reply to the Committee's previous observation, the Government states that consultations with the most representative organisations of employers and workers are held at every possible opportunity to solve employment, wages and other problems of workers particularly those in the urban areas. Consultations are held on a lesser scale in the rural and informal sectors. The Government adds that despite the fact that the informal sector is gradually growing, the workforce is not organised as it is in urban centres owing to numerous factors which are inherent in its location. The Committee recalls that, as regards employment policy, Article 3 of the Convention requires "the representatives of the persons affected" to be consulted, including those working in the urban, rural and informal sectors. The Committee therefore trusts that the Government will endeavour to take full account of the experiences and opinions of all sectors affected by employment policy measures.

4. The Committee notes with interest the information supplied by the Government on the establishment and operation of a National Institute of Vocational Education and Training (INFOCAL), by virtue of Supreme Decree No. 22105, of 29 December 1988. The above institution has a tripartite governing body and eight regional centres. INFOCAL is a member of the Inter-American Centre for Research and Documentation on Vocational Training (CINTERFOR), which is an ILO agency for Latin America and the Caribbean. In its General Survey of 1991, Human Resources Development, the Committee stressed the importance of a close link between technical and vocational education and training - such as that provided by INFOCAL - with employment prospects. It asks the Government to continue to provide information on the results obtained by INFOCAL in coordinating vocational education and training policies with prospective employment opportunities, giving particulars of action undertaken as a result of technical assistance or advice provided by the Office and its agencies (Part V of the report form).

5. The Committee asks the Government in its next report, to provide extracts of reports, studies and inquiries, statistical data, etc., on the size and distribution of the labour force, the nature, extent and trends of unemployment and underemployment, manpower projections, incomes and poverty, technological change, and the impact on employment of economic and social policy measures (Part VI of the report form).

#### Canada (ratification: 1966)

1. The Committee takes note of the Government's report for the period ending June 1990 and of the information concerning the provinces contained in its general report for 1990-91. According to the report on the application of the Convention, the employment growth rate has dropped steadily in relation to the previous period and the unemployment rate, after reaching in 1988-89 its lowest level since 1981 (7.5 per cent), is expected to cease dropping in 1990 and reach 7.7 per cent. The OECD has confirmed this negative trend in employment which has reportedly deteriorated further, and there has been a sharp increase in unemployment which apparently exceeded the

rate of 10 per cent in 1991. Furthermore, the Committee notes from the statistics supplied by the Government that in June 1990 (before the situation deteriorated), there were marked regional disparities, particularly in five provinces whose unemployment rate was well above the national average (between 9.1 per cent in Quebec and 18.6 per cent in Newfoundland). The data for the same period also show that involuntary part-time unemployment accounted for almost 25 per cent of total part-time unemployment in 1989-90 (recording a substantial drop in the case of women only). The recent trend in the employment and unemployment situation contrasts, by and large, with the situation commented on by the Committee in its previous observation.

2. When the 1989 and 1990 budgets were adopted, the Government reaffirmed that its priority objectives were the reduction of the budget deficit and inflation control so as to promote economic growth and job creation. In its report it indicates that the Canadian Jobs Strategy drawn up in 1985 is still the cornerstone of its employment policy. It refers to the launching, in 1989, of the Labour Force Development Strategy which aims to restructure employment policy expenditures as part of the policy to reduce the budget deficit. In conjunction with the reform of the unemployment insurance system and the regional development policy, this strategy aims to reinforce active measures for training for employment rather than passive income support measures for the unemployed. One of its objectives is to step up the role of the private sector in the training of workers so that training is better adapted to current labour market needs. The Committee would be grateful if the Government would report on specific difficulties encountered in attaining the Convention's objectives of full employment and in reconciling them with other economic and social objectives.

3. The Committee notes the training and employment development programmes which, as part of the Canadian Job Strategy, continue to provide assistance to persons with specific difficulties in finding and keeping lasting employment, such as young people, women entering or re-entering the labour market, the long-term unemployed and workers in danger of losing their jobs. According to the Government, although no estimates are available on the impact of these programmes on employment, specific evaluation studies reveal that they have improved the position of the participants in the labour market and that they could be further developed, particularly for older workers, the less educated and unemployment insurance beneficiaries who have recently lost their jobs. The Committee hopes that the Government will shortly be able to conduct an evaluation of the effect of these programmes on the employment of the categories of persons concerned. It notes that in 1989, the federal Government and the provinces jointly undertook a survey of the Canadian human resources development strategy. The Committee would be grateful if the Government would provide information on the results and conclusions of this survey.

#### Chile (ratification: 1968)

1. The Committee has taken note of the Government's report for the period July 1988 to June 1990. The report includes a detailed

analysis prepared by the Ministry of Planning and Cooperation concerning employment and employment policies. In addition the Committee has received comments from the Regional Employment Programme for Latin America and the Caribbean (PREALC), which agree in pointing out that the changes in employment and wages taking place over the period concerned were favourable.

2. Following a trend that began early in the decade (when adjusted unemployment reached 28 per cent in 1982-83), employment increased rapidly until mid-1989. By 1990 the growth rate of employment had diminished considerably as a result of the policy of adjustment that had to be adopted in order to counter inflationary pressure. In 1988-90 employment increased by some 7.4 per cent, bringing down the open unemployment rate from 9.1 per cent to 6.5 per cent. The Government states that the core of the problem has shifted from open unemployment to job informality and to the low wages earned by a large proportion of the population. Poverty is said to be the main social problem, and the employment problem the chief cause of poverty. The Government's labour policy aims at maintaining a low rate of open unemployment, improving the quality of existing jobs and changing the rules that govern relations between the social partners. To those ends, several amendment Acts to the Labour Code of 1987 have been approved, with particular reference to termination of the contract of employment and job stability; to trade union federations; and to trade union organisations and collective bargaining. The Committee trusts that the Government will include in its next report information about the relationships that have come into being between the objectives of an "active" employment policy as required by the provisions of Articles 1 and 2 of the Convention and the Government's other economic and social objectives.

3. The Government states that, among the measures designed to ensure the matching of labour supply and demand at the national level, a free public system of placement offices is in operation. The existing municipal placement offices have been restructured and a pilot plan is being carried out which emphasises vocational guidance activities addressed to young persons. A programme has been devised to make it possible to train young persons in undertakings by combining training with periods of work at establishments. In this connection the Committee ventures to mention the attention paid in its 1991 General Survey to international labour instruments relating to human resource development, and trusts that the Government will continue to supply information about the effect of the measures adopted to coordinate education and training policies with prospective employment opportunities.

4. The Committee would be grateful if the Government would also include information about measures designed to meet the needs of particular categories of workers, such as those promoted by the National Service for Women and for migrant workers by the National Returnees' Office. Please include also information about the measures adopted or planned on behalf of older workers, disabled workers and indigenous populations.

5. Article 3. The Government states in its report that efforts are aimed at two objectives: flexibility, so that entrepreneurs may adapt their undertakings to market changes, together with greater

stability in employment, more trade union organisation and greater bargaining power for the workers in order to ensure proper distribution of the benefits of development. The process of reforming labour legislation began with an enabling agreement between the Confederation of Production and Trade, the Unitary Central Organisation of Workers and the Government authorities. The Government also reports that committees composed of representatives of workers and employers have been set up in various parts of the country. The Committee would be grateful if the Government would supply in its next report information about the scope of the consultations, bearing in mind that on that subject the Convention provides that the representatives of those concerned shall be consulted "concerning employment policies, with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies". Please also specify whether consultations have been held with representatives of other sectors of the economically active population such as those working in the rural sector and the urban informal sector.

6. Part V of the report form. The Committee has noted with interest that PREALC is cooperating with the Ministry of Finance in preparing the young people's training programme; with the Ministry of Labour and Social Security in evaluating the effects of the increase in the minimum wage; with the Ministry of Planning and Cooperation in determining the social effects of micro-economic policy; and with the Solidarity and Social Investment Fund in evaluating the credit machinery for micro-undertakings. The Committee trusts that in its next report the Government will be good enough to supply information about the action undertaken as a result of the advice received from PREALC.

#### Costa Rica (ratification: 1966)

The Committee takes note of a general report - received in November 1990 - in which the Government states that there have been no significant changes in national legislation and practice as regards the application of the provisions of Convention No. 122, among others, and refers the Committee to previous reports. The Committee notes that the general report does not take into account the comments it made in 1989.

In its observation of 1989, the Committee expressed the hope, in particular, that the Government would continue to provide detailed information on the impact on employment of the measures taken to meet its monetary and financial commitments. The Committee considered that in order to be in a position to examine in detail the way in which effect has been given to the provisions of the Convention it would be necessary for the Government to provide full and detailed information on the matters set out in the report form for the Convention approved by the Governing Body, with particular reference to the difficulties that have arisen in achieving the objectives of the national programme for the generation of employment (as set out in Decrees Nos. 17269-TSS, of 1986, and 17436-TSS, of 1987) and to the consultations

with representatives of the persons affected, including those who work in the rural and informal sectors (Article 3 of the Convention).

Since the report on the application of the Convention has not been received, the Committee hopes that the Government will submit a complete and detailed report, as requested in the previous comments, so that it may be examined at the Committee's next meeting in March 1993.

Part V of the report form. In its communication of February 1988, the Government referred to the cooperation and technical assistance proposed by the ILO under a technical cooperation agreement for the national employment and social development programme, executed by PREALC with UNDP resources. The Committee trusts that the Government's next report will also contain detailed information on the action undertaken as a result of the advice received from the ILO in connection with the Convention.

#### Cuba (ratification: 1971)

1. In its observation of 1991, the Committee took note of a communication from the International Confederation of Free Trade Unions (ICFTU), dated 31 January 1991, which the Office transmitted to the Government in a letter dated 19 February 1991. In the above communication, the ICFTU alleged that effect was 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.

2. The Committee takes note of the Government's report for the period ending 30 June 1991. The Government refers to Article 1, paragraph 3, of the Convention which states that employment policy "shall take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives, and shall be pursued by methods that are appropriate to national conditions and practices". The Government states that owing to the present exceptional economic situation it has had to adopt a series of measures to reorganise the economy, designed to promote economic recovery while at the same time maintaining the levels of social development achieved, in health and education for example. The Government indicates that the various measures that have been tried include the adoption, in March 1990, of Resolution No. 4/91-CETSS, approving the Regulation on the employment and wages of redundant workers. The Regulations establish mechanisms for the relocation of workers affected by: (a) a reduction in the supply of fuel or technical and material supplies; (b) structural or institutional changes in the organisation of the State; (c) the elimination of jobs in order to rationalise the use of the workforce. The Government states that the implementation of Resolution No. 4/91-CETSS does not involve any discriminatory measures which would conflict with the objective of leaving no worker unemployed. The offer of new jobs and the relocation of the workers affected involves the administration, the trade unions and the committees established under Resolution No. 18/90-CETSS approving the Regulations on the admission of workers to employment, tenure and promotion, and the

selection of trainees. These committees are responsible for evaluating the indicators to be taken into account for the movement of personnel or the admission of new workers.

3. In its previous comments, the Committee referred to Article 1, paragraph 2(b) and (c) of the Convention, which provide that employment policy shall aim at ensuring that work "is as productive as possible", that "there is freedom of choice of employment" and that there is "the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin". In a context in which application of the Convention is difficult, the Committee can but insist that, while guaranteeing that no constraints are placed on persons obliging them to take up employment, employment policy must at the same time promote free choice of employment by enabling each worker to train for employment which can subsequently be freely chosen (paragraph 37 of the General Survey of 1991, Human Resources Development). The Committee repeats the request it made to the Government in 1989 and 1991 to indicate, in its next report, the specific employment policy measures adopted to overcome difficulties encountered in achieving the objectives of full, productive and freely chosen employment.

4. The Committee is addressing a direct request to the Government concerning more specific matters.

#### Ecuador (ratification: 1972)

1. The Committee notes the Government's report. As in its previous reports, the Government states that it has undertaken intense activities to promote employment within the framework of a coordinated social policy. The Committee notes that the Government's report does not contain detailed information on employment policy measures as requested in the report form for Articles 1 and 2 of the Convention, nor data on the situation, level and trends of employment, unemployment and underemployment. According to the information supplied by PREALC, economic policy has been mainly directed towards the implementation of an adjustment programme to control the public sector deficit and inflation, and progress has been achieved in both respects (inflation, which was around 100 per cent at the beginning of 1989, fell to around 50 per cent at the end of that year). The urban unemployment rate and the level of underemployment rose. Those most affected by unemployment are young persons, for whom the unemployment rate is nearly 20 per cent. The principle instruments of employment policy have been the emergency employment programme and activities to support micro-enterprises.

The Committee refers to the comments that it has been making for a number of years and points out that the preparation of a full report on the application of the Convention may require consultations with the other ministries or government agencies concerned with the implementation of the employment policy. In order to be in a position to be able to examine the manner in which effect is given to the provisions of the Convention, the Committee requests the Government to



include in its next report information on the size and distribution of the labour force; the nature, extent and trends of unemployment and underemployment; manpower projections; income and poverty; technological change; and the impact on employment of economic and social policy measures (Part VI of the report form).

2. Article 3 of the Convention. In reply to its previous comments, the Government states that it hoped to obtain the collaboration of trade union organisations and employers' organisations in the quest for successful solutions to the crisis and for improvements in the living standards of the population. The Government deplores the fact that the workers' organisations that were called upon rejected social consultations. Employers' organisations only sought consultation in certain circumstances. The Committee is bound to emphasise the importance of the consultation with the representatives of the persons affected by the measures to be taken. The experience and views of such persons should be taken fully into account, their full cooperation secured in the formulation of the above policy and their support enlisted in its implementation. The Committee hopes that greater efforts will be made in this connection and that in its next report the Government will be in a position to indicate the results achieved in this respect. Please also state whether consultations have been held with representatives of the rural sector and the informal sector.

3. In a direct request, the Committee is raising other issues related to the application of the Convention (activities of the programme to support micro-enterprises and the emergency employment programme; the activities of the National Employment Institute; the impact of the new legislation on the creation of lasting employment).

France (ratification: 1971)

1. The Committee has taken note of the Government's report for the period ending June 1990 and of the attached documents dealing in particular with the results of the employment policies in 1989. Referring to the information supplied by the Government and the data given in the reports and studies of OECD, the Committee observes that the sustained growth of economic activity enabled total employment to increase by 1.2 per cent in 1989 and by 1.1 per cent in 1990, while the unemployment rate (standardised by OECD) was reduced from 10 per cent in 1988 to 9 per cent in 1990. Since the end of the period covered by the report, however, employment has virtually ceased to grow owing to the fall-off in performance of the economy, and in 1991 the unemployment rate increased sharply to 9.8 per cent. The unemployment rate is still higher in France than in most other OECD countries which have ratified the Convention, and the duration of unemployment there remains a source of concern. Long-term unemployment (for a year or more) still accounts for 44 to 45 per cent of total unemployment; while slightly down among young people, it has grown worse for workers in the peak-activity age groups, an increasing proportion of whom have been unemployed for over three years. Workers with few skills form a category particularly sensitive to the unfavourable trend of employment and unemployment. The trend towards



dualism in the labour market, which was noted in the previous comments, appears to be persisting.

2. The Government explains in its report the main lines pursued by its employment policy, whose priorities are: to avert difficulties of employment management at undertaking level by helping undertakings to foresee their labour problems and respond to them, in particular by measures to train their employees; to promote employment under a policy of backing local economic development and supporting the creation of new activities; and to simplify and rationalise the machinery of assistance in the integration of jobseekers by involving local actors more closely in their management, improving the quality of the actions undertaken and concentrating efforts in favour of the groups most exposed to the risk of exclusion, such as people who have been unemployed for more than three years, older unemployed persons and persons in receipt of the "minimum integration income" (RMI).

3. The Committee notes the information concerning the incidence of the various measures taken along these lines. The arrangements for preventing dismissals and for reclassifying dismissed workers have been strengthened in pursuit of the policy of backing restructuring. Measures of assistance to unemployed persons who set up or take over undertakings made a 17 per cent contribution to the creation of undertakings in 1989. Half of the 71,000 jobs filled in that year under the system of exemption from social contributions for the engagement of a first employee went to unemployed persons. As to the arrangements for assistance in the training and integration of jobseekers, the return-to-employment contract, a new form of incentive for the engagement of long-term unemployed persons, made it possible by the end of October 1990 to reintegrate 83,000 unemployed persons, 46 per cent of them under contracts of indefinite duration. By the same date, 230,000 young people had been recruited on alternate training contracts, in most cases of limited duration. The "employment solidarity contract", for its part, enabled public agencies or associations to take on 177,000 persons between February and October 1990 for a fixed term. The Committee would be grateful if the Government would continue to supply detailed information on the results achieved by these various programmes and to state in particular how far they contribute to the effective and lasting integration of the beneficiaries in employment.

4. The Committee appreciates the information supplied by the Government but observes that it deals exclusively with specific policies of employment and labour market management. It appears that in recent years these policies alone have not made it possible to advance towards the objective of full employment, whereas the objective of "competitive disinflation" pursued by means of restrictive macroeconomic policies seems largely to have been attained, judging by the difference in inflation rates for those of the main OECD countries. With reference to its previous observations, the Committee would be grateful if the Government would supply in its next report full information calculated to enable it to assess the way in which the Convention as a whole is applied. It again asks the Government to indicate, in response to the questions in the report form, the measures taken or contemplated to give effect to the fundamental provisions of the Convention, among which Article 1 asks

each Member to declare and pursue, "as a major goal", an active policy designed to promote full, productive and freely chosen employment, while Article 2 provides that the measures to be adopted for attaining those objectives should be decided on and kept under review "within the framework of a coordinated economic and social policy". The Committee further asks the Government to explain how representatives of the persons affected, and in particular representatives of employers and workers, are consulted concerning employment policies "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies", as required by Article 3 of the Convention.

Germany (ratification: 1969)

1. The Committee takes note of the Government's report concerning the application of the Convention in the western Länder during the period ending June 1990. It also notes the communication of the German Trade Union Confederation (DGB) dated 10 July 1991, and the comments communicated on 12 December 1991 by the Government on the points raised.

2. The Committee notes that in conjunction with sustained growth in economic activity, employment growth exceeded the growth of the active population during the period under consideration, with the result that the unemployment rate dropped from 6.2 per cent in 1988 to 5.6 per cent in 1989 and 5.1 per cent in 1990, according to the OECD standardised rates. Unemployment among young people continued to decline but long-term unemployment still accounts for a large proportion of total unemployment. The OECD reports and surveys also show a considerable disparity in the situation and trends of employment between the western Länder and the new Länder. The Committee points out in this connection that the Government's next report should enable it to ascertain fully the manner in which the Convention is applied in the country as a whole.

3. The Committee notes that, according to the Government, the improvement in the employment situation reflects an effective economic policy geared to encouraging private sector investment and reorganising public finance. In its report, the Government describes the measures implemented as part of the overall tax reform that have reduced company and individual tax with a view to encouraging investment and demand, thereby creating the conditions for steady growth and job generation. The DGB considers that the economic performance is largely due to the favourable position of the trade balance and the balance of payments, which is a result of external factors such as the drop in oil prices or high external demand. The DGB also indicates that despite the reforms referred to by the Government, fiscal pressure has dropped only slightly and that following the accession of the new Länder, it has been decided that there will be new tax increases. The Committee would be grateful if the Government would continue to provide information on the way in which the objectives of its overall economic policy contribute to the promotion of employment.

4. The Government considers that active labour market policy measures have made a considerable contribution to reducing unemployment. In this connection, it refers to the increase in the number of participants in continuous training programmes and the implementation of special programmes to integrate into the labour market categories of persons experiencing particular difficulties such as, in particular, the long-term unemployed. In the view of the DGB, however, expenditure on job creation has been reduced whereas the objectives planned have not been fulfilled. The Committee notes that, according to the Government, the Federal Employment Institute still has the resources necessary for the performance of its functions and there is no plan to reduce them, as can be seen from the regular increase in its budget.

5. With reference to its previous comments, the Committee notes that following several studies concerning the effect on employment of the provisions of the Employment Promotion Act of 1985 relating to fixed-term contracts, these provisions have been extended by the Act of 22 December 1989 until 31 December 1995. According to the Government, the various studies show that fixed-term contracts have enabled new jobs to be created without affecting the employment conditions of the workers concerned and, in most cases, have led to permanent employment. The DGB, however, considers that this type of contract has been used by employers to extend trial periods and to facilitate smoother adjustment to fluctuations in production, rather than to create new jobs. The provisions of this Act, by favouring the trend towards thinning out the number of regular staff employed, without encouraging new recruitment, have only had the effect of increasing the precariousness of employment. In view of the disparities between the two assessments, the Committee would be grateful if in its next report, the Government would provide all relevant extracts of the surveys referred to and to state the measures adopted to ensure that the implementation of the provisions concerning fixed-term contracts has no unfavourable effects on the employment conditions of the workers concerned.

Honduras (ratification: 1980)

1. The Committee notes the Government's report in which it states that, in the same way as many developing countries, it is still affected by a significant weakening of its growth rate. The economy has not been able to create new employment in sufficient quantities to absorb those entering the labour force, which has given rise to underemployment, particularly in the rural sector. In order to deal with the situation, the Government has embarked upon a broad programme of financial stabilisation and structural adjustment of the productive system. The principal elements of the programme are intended to increase government income and reduce expenditure. The Committee trusts that, in this context, account will be taken of the need to emphasise the equitable distribution of the social costs and benefits of structural adjustment. The Committee requests the Government to indicate in its next report the extent to which the difficulties encountered have been overcome in achieving the objectives of full,

productive and freely chosen employment, as set out in the development plans and programmes that have been established and which are being implemented (Article 1 of the Convention). Please describe the procedures adopted to ensure that, at both the planning and implementation stages, the effects on employment of measures taken in the context of the financial stabilisation and structural adjustment programme receive due consideration (Article 2).

2. In its previous comments, the Committee recalled the importance of consultations with representatives of the persons affected by the employment policy measures to be taken. These consultations should have the objective of taking into account their experience and views and enlisting support for such measures. The Committee noted that, within the context of the programme to strengthen institutional support for programme managers (FIE), efforts are being made to strengthen the capacity to promote projects through the intermediary bodies of the Honduran Social Investment Fund. It also noted the consultations with the population in the community which will implement a project within the framework of the "food for work" programme. The Committee trusts that the Government will supply information in its next report on the consultations required under Article 3 of the Convention, which should include representatives of employers' and workers' organisations as well as representatives of other persons affected, such as those who work in the rural and informal sectors.

3. In a direct request, the Committee is raising other questions relating to the application of the Convention (measures for certain categories of workers, the impact of certain special employment programmes, rural employment, the activities of the National Institute of Vocational Training, and the technical assistance provided by the ILO).

#### Ireland (ratification: 1985)

1. The Committee notes the Government's two successive reports for the periods 1 July 1988 to 30 June 1989 and 1 July 1989 to 30 June 1990. According to the information supplied by the Government and contained in OECD reports and surveys, the dynamic economic activity during the period under consideration (GDP growth rates of 5 and 6.6 per cent respectively for 1989 and 1990) has been accompanied by rapid employment growth (3.3 per cent in 1990), and a substantial decrease in the unemployment rate, which fell from 16.7 per cent in 1988 to 15.6 per cent in 1989 and 13.7 per cent in 1990, according to the OECD standardised rates. The young persons share of unemployment has decreased slightly, although the proportion of the long-term unemployed among total unemployed persons remains stable at around 45 per cent. However, the deterioration of the employment situation since the end of the period covered by the report has threatened the achievements of two years of sustained growth: the unemployment rate in 1991 rose steeply to a level of 15.8 per cent, which was slightly higher than the rate in 1989. With reference to its earlier comments, the Committee notes that the employment situation, which is

characterised by one of the highest unemployment rates in Europe, remains a matter of great concern.

2. The Government states that the improvement in the employment situation during the period covered by the report is a result of the measures that it has taken to create an environment which is favourable to the development of the economy, particularly by controlling public finances. It emphasises that the implementation of its policy has been strengthened by the support of the social partners, with whom it concluded in October 1987 a general agreement establishing a three-year Programme for National Recovery. The climate of confidence and stability to which this gave rise permitted an increase in investment, greater competitiveness by enterprises, an improvement in living standards and the creation of more jobs. The Committee notes that the tripartite Central Review Committee set up to review and monitor progress in implementing the Programme for National Recovery indicated in its report of February 1990 that the objective of creating 20,000 jobs per year had been achieved in 1988 and 1989. The Government also describes the industrial policy measures intended to promote the development of a competitive industrial and service sector and thereby contribute to employment growth. It states that this policy is now tending to encourage the research and marketing activities of enterprises.

3. The Committee notes the information concerning labour market policy measures, which refer in particular to the promotion of self-employment and training. It also notes the information supplied by the Government in its reports on the application of Conventions Nos. 88 (employment service), 1948 and 142 (human resources development), 1975, which mention in particular the introduction of programmes to promote the vocational integration of unskilled young workers and the long-term unemployed.

4. The Committee notes the publication in March 1989 of the National Development Plan 1989-93, which provides for a series of structural measures which the Government proposes to implement in conjunction with the European Community Structural Funds, and which sets the objective of creating 100,000 jobs over the period in question. The Committee would be grateful if the Government would supply a copy of this Plan and if it would indicate in its next report the results achieved in attaining the employment objectives set out in the Plan. The Committee also requests the Government to continue supplying detailed information on the measures taken by the Training and Employment Authority (FAS), and in particular on the scope of the various programmes and their results in terms of the integration of the persons concerned in employment. In view of the persistence of the worrying employment situation, the Committee hopes that the Government will pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.

#### Italy (ratification: 1971)

1. The Committee notes the Government's report for the period ending June 1990, the information supplied to the 78th Session of the Conference (June 1991) and the discussion in the Conference



Committee. The Committee notes that, according to the information available to the ILO or contained in OECD reports, there was a reduction in the unemployment rate in 1990, which fell from 12 to 11 per cent. Despite this overall decrease, there remain major disparities between the regions, between the sexes and between age groups, which continue to be affected in a very unequal manner by unemployment. The regional differences in unemployment rates remain considerable: although the unemployment rate in the South has decreased substantially from 21.1 per cent to 19.7 per cent, this rate is three times higher than in the North of the country. The unemployment rate for women is 17.1 per cent as against 7.3 per cent for men, despite a participation rate by women which remains relatively low. Unemployment is particularly high among young persons (33.6 per cent of the 14-24 age group in 1989). The extent of long-term unemployment, which accounts for over two-thirds of total unemployment, is all the more worrying since 60 per cent of the long-term unemployed are young persons. All these figures bear witness to the continuing gravity of the problem of structural unemployment. The Committee would be grateful if the Government would include in its next report the available information on the situation, level and trends of employment, unemployment and underemployment, both in the aggregate and as they affect particular categories of workers including, as it requested in a previous observation, migrant workers.

2. The Committee notes that the Government gives full recognition to the need to pursue active policies designed to deal with the structural causes of unemployment. In this connection, it notes with interest the information that the resources allocated to active employment policy programmes have been increased substantially over recent years. The Government's report covers all the measures that have been taken, as the Committee has already noted in previous comments, including financial subsidies for the creation of jobs by enterprises in the South, the part-time employment of young persons in work of community interest, the participation of the Fund to Reduce Unemployment in the financing of investments to create jobs, and the financial and technical assistance supplied for the creation of enterprises by young persons in the South. The Committee notes with interest the increased importance of combined employment and training contracts, which covered more than half a million young persons in 1990, and the Government's plans to increase the number of beneficiaries by raising the age limit, to promote the transformation of these contracts into permanent employment contracts and to supplement them by employment preparation contracts intended in particular for young persons of between 15 and 25 years of age. The Committee would be grateful if the Government would continue to supply information on the various programmes that have been implemented, and on the measures that have been taken to assess their impact on the employment of the groups for whom they are intended and on other categories of the population.

3. The Government states that in order to combat unemployment in the South effectively, it is necessary to look beyond isolated emergency measures, which have been found to be insufficient, in order to adopt an integrated approach to development that is coordinated with an active labour market policy. It states that it is convinced

of the need to coordinate initiatives to reduce unemployment and develop human resources with more general measures to promote the dynamism of the productive system. The Committee notes these statements and requests the Government to indicate in its next report the general economic policy measures that have been taken or are envisaged, particularly in the fields of investment policy, fiscal policy and regional development policy as a result of this orientation of its employment policy. Furthermore, the Committee would be grateful if the Government would supply information on the measures that have been taken or are envisaged in order to coordinate education and training policies with prospective employment opportunities, taking into account the relevant provisions of Convention No. 142 and the Committee's comments on the application of this Convention.

4. The Committee notes the conclusion in March 1991 of an agreement between the Government and employers' and workers' organisations for the overall development of the South. More generally, it notes with interest, following the debate in the Conference Committee, that the existing consultation procedures between the Government and the social partners on employment policies appear to be functioning in a satisfactory manner. The Committee does not doubt that the Government will continue to supply information on the manner in which the representatives of the persons affected are consulted concerning employment policies.

5. In conclusion, the Committee notes, in accordance with its previous comments relating to the impact of the measures that have been taken on the employment situation, the conclusion of the Conference Committee in June 1991 that the measures taken within the framework of the employment policy, despite the Government's efforts, have not resolved the employment situation, which remained worrying, especially with regard to disparities between regions, age groups and between the sexes. The Committee trusts that the Government will supply, within the time-limits set forth, as requested by the Conference Committee, the necessary information, particularly on the measures adopted in order to achieve the objectives set out in Article 1 of the Convention.

#### Morocco (ratification: 1979)

With reference to its general observation of 1991, the Committee notes the communication received jointly from the Democratic Confederation of Labour and the General Union of Moroccan Workers, dated March 1991, a copy of which was transmitted to the Government in a letter dated 5 April 1991. The Committee notes that the report that was due from the Government has not been received.

The Democratic Confederation of Labour and the General Union of Moroccan Workers allege that the Government is not pursuing an effective employment policy, omits to consult occupational organisations and thereby fails to give effect to the provisions of the Convention. These organisations consider that the Government, by abandoning its planning policy and replacing it by plans to balance its finances in accordance with the advice and directives of the IMF, is ignoring the relationship between employment objectives and other



economic and social objectives. They state that the Government does not follow any dialogue and consultation procedures with occupational organisations and that it has paralysed the Supreme Labour Council since its creation by the Decree of 14 August 1967. They urge that a national tripartite body be established to declare and pursue a national policy of full employment.

The Committee notes that certain of these allegations are related to the points that it has raised in its previous comments. It trusts that the Government will supply full particulars in its report in reply to these allegations and to the request that is being addressed directly to it in order to enable the Committee to examine at its next session the manner in which effect is given to the fundamental provisions of the Convention, of which Article 1 requires the declaration and pursuit "as a major goal", of "an active policy designed to promote full, productive and freely chosen employment", taking due account of the "mutual relationships between employment objectives and other economic and social objectives", and Article 3 provides that "representatives of the persons effected by the measures to be taken, and in particular representatives of employers and workers, shall be consulted concerning employment policies, with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies".

#### Netherlands (ratification: 1967)

1. The Committee has taken note of the Government's report for the period ending June 1990 and of the comments made by the Federation of Netherlands Industry (VNO). In addition, it has taken into account information given in OECD surveys, and notes that the increase in employment of 1.7 per cent in 1989 and 1.9 per cent in 1990 made it possible for the fall in the unemployment rate to continue, from 8.3 per cent in 1989 to 7.5 per cent in 1990 according to the OECD standardised rates. While the ratio of unemployment among young people (under 25 years of age) to total unemployment declined appreciably between 1989 and 1991 (from 27.5 to 22.5 per cent), the proportion of long-term unemployment (for a year or longer) remained high (54-55 per cent).

2. The Committee notes the information concerning the measures adopted during the period under consideration, which are aimed mainly at promoting the vocational reintegration of the long-term unemployed. The new Act to promote employment for the long-term unemployed, adopted in 1989, has instituted a subsidy scheme for the employment of long-term unemployed persons in regular jobs. Under this programme, employers are encouraged to take on long-term unemployed persons and to create new jobs for them, by the suspension of their social contributions and the payment of a guidance and training allowance. Furthermore the Government states that the Regional Employment Offices have undertaken, in collaboration with municipal social services, to extend to all long-term unemployed persons the practice of reorientation interviews as a means of promoting entry or re-entry into the labour market through a personal

approach. The Government's report also contains information on measures designed to promote the employment of particular groups such as young people, members of ethnic minorities and the handicapped. In that connection the Committee has taken note with interest of the Government's first report on the application of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159). The Government also refers to the effects which voluntary early retirement has on employment. In its view, the increase in the rate of replacement of workers taking early retirement shows that voluntary early retirement schemes are making a significant contribution to the fight against unemployment. The Federation of Netherlands Industry states in its aforementioned comments that extensive use has been made of these measures in cases of collective dismissal.

3. The Committee notes the entry into force on 1 January 1991 of the new statute of the Netherlands Employment Organisation, the main features of which are tripartism and decentralisation. The Employment Service Organisation has become an autonomous public service headed by a Central Employment Promotion Board (CBA) which is composed of equal numbers of representatives of the Government, of employers' organisations and of workers' organisations. The Regional Employment Offices, which are similar in structure, are given broad discretion to determine their own regional policy. In this context, as it has mentioned elsewhere in its report, the Committee has taken note of the denunciation of Part II of Convention No. 96 concerning Fee-Charging Employment Agencies, 1949 and the simultaneous ratification and acceptance of Part III concerning the Regulation of Fee-Charging Employment Agencies. The Committee has further noted with interest the documents attached to the Government's report concerning the main lines of labour market policy for the years 1991-95. According to the Government's forecasts, the evolution of the labour market during that period should be characterised by increasing divergence between supply and demand, owing in particular to the fall in demand for unskilled labour. Long-term unemployment, which mainly affects the least-skilled workers, will consequently remain a priority concern of the employment services. The quality of employment services will be improved by intensifying contacts with their employer and jobseeker users. Quantitative objectives are set for the employment services in terms of registration of offers of employment and the placement of workers in categories particularly affected by unemployment. The Committee has no doubt that the Government will supply, in its forthcoming reports information on the results achieved.

4. With reference to its previous comments, the Committee would be grateful if the Government would supply the information required by the report form on economic policy measures in such fields as investment policy; fiscal and monetary policies; trade policy; prices, incomes and wages policies, and on the procedure adopted to ensure that the effects of these measures on employment receive due consideration. The Committee further hopes that the next report will include detailed information on the volume and distribution of labour, the nature and extent of unemployment and underemployment, and trends in those matters.

Norway (ratification: 1966)

1. The Committee notes the Government's report for the period ending June 1990, in which it describes worrying developments in the employment situation. According to the Government, the 3.5 per cent drop in employment recorded in 1989 is the sharpest experienced by the country since 1945. The contraction of the labour market continued in 1990 at a slower rate of 0.9 per cent. The unemployment rate, which was 3.2 per cent in 1988, reached 4.9 per cent in 1989 and 5.2 per cent in 1990. According to OECD data, in the absence of a recovery in employment growth, the unemployment rate stabilised in 1991 at this unusually high level in Norwegian terms.

2. The Government states that, in order to deal with this high and growing rate of unemployment, the scope of various labour market policy measures has been considerably extended. The total number of those benefiting from these measures, which has increased very markedly, represented 2.2 per cent of the active population in the first half of 1990, compared with 0.4 per cent in 1988. Emphasis has been placed on training measures, particularly for young persons and workers threatened by long-term unemployment. In this connection, the Committee notes the information supplied by the Government in its report on Convention No. 142 Human Resources Development, 1975 for the period ending 30 June 1991. The existing programmes have been supplemented since 1989 by a special public employment scheme.

3. The Committee notes this information with interest. It hopes that the Government will continue to supply detailed information on the various labour market policy programmes and measures and that it will indicate the results achieved. Further to its previous comments, and in relation to the worrying employment situation, the Committee trusts that the Government's next report will also contain the information required by the report form on the measures taken, within the framework of a coordinated economic and social policy, to promote full, productive and freely chosen employment, as a major goal. It would be grateful if the Government would indicate in particular the manner in which the measures taken in fields such as monetary and budgetary policies, prices, incomes and wages policies and investment policy contribute to promoting employment objectives. The Committee also requests the Government to indicate the manner in which representatives of the persons affected, and in particular representatives of employers and workers, are consulted concerning employment policies in accordance with Article 3 of the Convention.

Paraguay (ratification: 1969)

1. The Committee notes the Government's report. The Government states that, since the move towards a democratic system, a national economic and social development plan for the biennium 1989-90 has been formulated. The Committee notes with interest that the primary objective in relation to employment and human resources is that of "maintaining the growth rate of the absorption of the labour force, seeking to bring the national economy to a situation of full employment". The other objectives concern the relationship between

the formal and informal sectors, achieving a progressive increase in real wages, increasing the level of technical, managerial and vocational skills of the workforce, improving worker-management relations, strengthening the machinery for the collection and interpretation of labour market data and achieving greater coordination between labour institutions. The Government adds in its report that, in order to achieve these objectives, various measures are being taken in both the public and private sectors and that these involve the revision of various laws such as the legislation respecting investments, the Labour Code, the tax legislation and much other legislation that is related directly or indirectly to employment. There has been strong employment growth in the informal sector, and even if this employment is not reflected in current statistics it is one of the major reasons for the decrease in the unemployment figures, although it has given rise to greater underemployment (estimated at around 40 per cent) in informal work that brings in little remuneration. In view of the predominance of young people in the population, which is growing and becoming very significantly concentrated in urban areas, the Government accords special importance to the development of youth employment, in connection with which it is expecting technical assistance from the Office. Furthermore, as laid down in Articles 1 and 2 of the Convention, measures have been taken to coordinate vocational training measures with prospective employment opportunities and to collect and analyse information on the labour market as a basis for the adoption of employment policy measures. The Committee hopes that in its next report the Government will indicate the extent to which the objectives set out in the national economic and social development plan of 1989-90 (45,000 new jobs per year) have been achieved and that it will also be able to supply information on the measures that have been adopted under the "policy guidelines for employment and human resources" as set out in the plan. Please indicate any difficulties that have been encountered in pursuing an active policy designed to achieve full employment.

2. With reference to the comments that the Committee has been making for a number of years on the application of Article 3, the Government states in its report that the representatives of workers and employers participate fully in the councils on which they sit, but that employment policy measures are not covered in full in such bodies (such as the Social Welfare Institute, the National Service for Vocational Advancement, the National Workers' Bank, the National Council on Minimum Wages, and the Permanent Board of Conciliation and Arbitration). The Government adds that, since the new authorities took power, there has been greater openness and interest both by the national authorities and the other social partners who are active in the field of employment. The Committee trusts that the Government will be able to supply information in its next report on the progress that has been achieved in relation to the consultations concerning employment policies that are to be held with representatives of the persons affected (representatives of employers' and workers' organisations and representatives of other sectors of the economically active population, such as those working in the rural sector and the informal sector). The Committee points out, in relation to the

objective of the consultations, that Article 3 of the Convention provides that such consultations shall be held "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support" for the policies in question.

3. In a direct request, the Committee is requesting information on certain aspects of the application of the Convention (the impact of the activities of the National Service for Vocational Advancement and of current public works, as well as statistical data on the labour market and the situation of certain categories of workers, together with information on the employment of young persons and programmes to support micro-enterprises).

Peru (ratification: 1967)

1. According to the information supplied by the Government in its report (received in March 1991), the labour market situation is "fairly critical", with a high rate of underemployment which affects 75 per cent of the economically active population, and small and medium-sized enterprises supplying the domestic market are the sector most affected by the economic recession. The new national authorities have set five basic economic policy objectives: to close the budget deficit, to stop issuing money as a means of financing the public sector, to realign relative prices, to restructure wage levels and to revitalise certain sectors of the productive apparatus with a view to stimulating the other sectors. The Government hopes that these economic policy measures will step up job creation and will lead to the recovery of the purchasing power of the workforce. Social policy measures being implemented since August 1991 include an emergency programme to generate productive employment. The programme aims to provide occupational and pre-professional training for young people and to support small enterprises and micro-enterprises. The Government points out that young employees and women are the most affected by the employment problem. It also indicates that the State will promote the integration of these socially underprivileged groups by providing better job opportunities so that they can attain a higher standard of living.

2. The Committee notes that by virtue of Act No. 25327, of 14 June 1991, Congress had empowered the Executive to legislate on matters relating to employment promotion, amongst others. Legislation adopted includes the Employment Promotion Act (Legislative Decree No. 728, of 8 November of 1991). The Legislative Decree's objectives are to "promote large-scale access to productive employment as part of the overall economic policy and through special employment programmes". In addition, it introduces major innovations with a view to greater flexibility in employment. The Committee notes that the statement of the grounds for the adoption of the Legislative Decree mentions explicitly, amongst other reasons, the application of the criteria laid down in the Termination of Employment Convention, 1982 (No. 158), particularly those concerning procedures for the reduction of personnel. In the framework of the Employment Promotion Act, the Ministry of Labour and Social Development is to provide for special

incentives in three areas: (i) programmes for women with family responsibilities, unemployed workers experiencing difficulties in finding employment and disabled workers; (ii) programmes for the reconversion of enterprises in the urban informal sector; (iii) programmes for the promotion of self-employment.

3. As it has for several years, the Committee can but encourage the Government to pursue its endeavours to increase employment and improve living standards for the most vulnerable categories of the population. It also reiterates its concern at developments in the economic situation, which is not conducive to the achievement of full and productive employment. The Committee notes that the Government has repeatedly referred to full and productive employment amongst the objectives of its labour and economic policy instruments. The Committee hopes that in its next report, the Government will indicate the extent to which its employment objectives have been attained, specifying how it has been possible to satisfy the needs of the specific categories of workers affected by structural adjustment measures.

4. The Committee raises other, more specific points concerning the application of the Convention in a request addressed directly to the Government.

#### Portugal (ratification: 1981)

1. The Committee has taken note of the Government's report for the period ending June 1990 and of the information given in it in response to its previous comments. It observes with interest that the information supplied by the Government and the data since published by OECD confirm the continued improvement in the overall labour market situation which it noted in its previous observation. The maintenance of a sustained rate of growth in employment (2.2 per cent in 1989 and 1990 and 2.9 per cent in 1991) made it possible for the unemployment rate to continue falling, from 5.1 per cent in 1989 to 4.6 per cent in 1990 and below 4 per cent in 1991. Nevertheless, despite the noteworthy progress achieved, the still relatively high ratio of long-term unemployment to total unemployment (about one-third) and the unemployment rates among young people and women still give cause for concern, together with the slow-down in the growth of labour productivity. Furthermore the development of tension in the labour market has revealed sectoral shortages of labour and increased inflationary pressure.

2. The Committee notes the employment policy programmes and measures provided for in particular in the activity plan for 1990 of the Institute of Employment and Vocational Training (IEFP). It takes note of the measures to increase the geographical and occupational mobility of workers and the attention given to action on long-term unemployment and to the promotion of employment for particular groups (young people, women and handicapped workers). It again notes that, under the "regionally based incentive system" (SIBR), public aid to investment is aimed at the less-advantaged regions and labour-intensive sectors. With reference to its previous observation, it would be grateful if the Government would indicate how far the



objectives of the Programme for Structural Correction of the External Deficit and of Unemployment (PCDED) have been or are being attained, and if it would mention any particular difficulties encountered. Noting that it was one of the functions of the Interministerial Committee for Employment (CIME) to analyse the employment policy and its interaction with the various global and sectoral policies, the Committee would be grateful if the Government would supply information on the opinions or proposals put forward by that body in this connection.

3. The Committee notes the entry into force, during the period covered by the Government's report, of Legislative Decree No. 64-A/89 to revise the legal rules governing termination of the individual labour contract and the fixed-term contract. This text forms part of the reform of the labour market regulations and responds to the concern to increase the flexibility of employment and of the labour market. Other provisions deal in particular with the reduction of hours of work or the coverage and level of unemployment benefit. The Committee would be grateful if the Government would supply information on the scope and implementation of the reform, indicating the estimated effects on the operation of the labour market and, where applicable, on the rights and welfare of workers recognised in other accepted ILO standards.

4. The Committee notes with interest the information concerning consultation with the social partners, with particular reference to questions concerning vocational training which are discussed in the Interministerial Committee for Employment (CIME), the Standing Council for Social Consultation and the Advisory Council of the Office of Technological, Artistic and Vocational Education (GETAP). It notes further that committees for the supervision of sectoral restructuring, composed of representatives of trade unions and employers, have been established; other sectors were in process of restructuring during the period covered by the report. The Committee would be grateful if the Government would continue to supply information on consultation and cooperation with representatives of the interested parties concerned in the formulation and implementation of employment policies.

#### Sweden (ratification: 1965)

1. The Committee notes with interest the detailed information supplied by the Government in its report for the period ending June 1990. According to this information, the favourable development of the employment market continued during the period under consideration. Employment continued to rise and the already high participation rates increased still further for both sexes and for the various age categories, while unemployment affected only 1.5 per cent of the active population. Recent data (particularly those published by the OECD), however, show that, since the end of that period, the employment situation has tended to worsen appreciably. In a situation of declining economic activity and a marked slow-down in employment growth, the unemployment rate rose to over 3 per cent by the end of 1991, despite a decrease in the active population. Whilst the excellent position described in the report accompanied a policy



clearly in step with the aims of the Convention, recent indications of some difficulties have been met with prompt response in an effort to maintain the position.

2. The documents to which the Government refers in its report show that full employment is one of the overall objectives of its general economic policy, which also aims to achieve rapid economic growth, an equitable distribution of income, a healthy balance of payments and a low inflation rate. However, in its guidelines for the 1990-91 Budget Act, the Government states that the immediate future will be crucial in deciding whether or not it will be possible to reduce inflation without, as is usual in other countries, having recourse to high unemployment. The Committee would be grateful if the Government would supply information in its next report on the general economic policy measures that have been taken or are envisaged in the new context of a slow-down of economic activity in order to maintain the policy of promoting full employment as a "major goal".

3. The Committee notes with interest that, during the period covered by the report, the Government continued to emphasise active employment promotion measures such as the provision of assistance for geographical mobility, the provision of paid vocational training to the unemployed, subsidies to enterprises recruiting young or disabled jobseekers, and the financing of training in enterprises intended to adapt workers to new technologies and changes in the organisation of work. The Committee hopes that the Government will continue to supply detailed information on these measures and their impact on employment, and on any new measures that are taken to combat unemployment.

#### United Kingdom (ratification: 1966)

1. With reference to its previous observation, the Committee has examined the Government's detailed report for the period ending June 1990, which was received in February 1991, and communications from the Trades Union Congress (TUC) dated 21 December 1990 and 20 December 1991, a copy of which was addressed to the Government. It notes that the Government has not acted on the invitation to transmit its own observations on the points raised by the TUC.

2. The Government's report indicates that employment increased vigorously over most of the period under consideration and that the unemployment rate continued to fall, from 8 per cent in June 1988 to 5.4 per cent in March 1990. The drop in unemployment was smaller in Northern Ireland, where the unemployment rate stood at 13.6 per cent in June 1990. The favourable trend in employment, however, began to be reversed towards the end of the period of report. The information supplied by the TUC, confirmed by OECD surveys and reports, indicates that in 1991 the recession in economic activity was accompanied by an appreciable decline in total employment and a swift increase in unemployment. According to the TUC, more than 850,000 jobs were thus lost between March 1990 and December 1991. Moreover the real extent of unemployment is said to have been largely underestimated by government statistics; according to the TUC's calculations, at least 480,000 persons, of whom a majority are women, are not registered owing in particular to restrictions on unemployment insurance

benefits. The TUC expresses its concern at the prospects of a continued increase in unemployment affecting all sectors and all regions, and at the increasing length of periods of unemployment. Its estimate of approximately 2.5 million unemployed by the end of 1991, or some 9 per cent of the economically active population, corresponds to the figures published by the Government and available to the Office.

3. In this context of profound deterioration in the employment situation, the TUC declares itself deeply concerned about the continuing failure to apply the Convention effectively. It mentions its attachment to the principles of the Convention, and regrets that an impact of those principles on the economic and industrial policies of the Government is still not discernible. Far from making full employment a central aim of economic policy, the Government appears to be content to see the return of mass unemployment; it shows no sign of pursuing an active policy to promote full employment. The Government, for its part, considers that the favourable results achieved in terms of employment during the period of report can be credited to a sound economic and financial policy that gives priority to bringing down the level of inflation and improving supply conditions. Consequently its economic policy continues to be aimed mainly at reducing inflation to a low level and creating a favourable climate for investment by undertakings as prerequisites for job creation. The Government maintains, however, that employment prospects also depend on factors beyond its control, such as the level of wage settlements and the state of the world economy. In its latest communication, however, the TUC does not fail to point out that, in the same international economic context, Britain lost 700,000 jobs in the year to June 1991, whereas nearly 1 million jobs were created in the other 11 EEC countries.

4. The Government also refers in its report to labour market policy measures for the placement and training of the unemployed. It states that it is the priority of the Employment Service to ensure that the unemployed, especially the long-term unemployed, do not lose touch with the labour market and are encouraged to use every possible means, including training, of getting back to work. According to the TUC, however, the Government has failed to take the active labour market policy measures required by the Convention, such as improvements in employment services, adult training measures and promotion of the employment of women and disadvantaged groups. In particular the Community Programme has been discontinued and the schemes introduced to replace it have in many cases proved inadequate. More generally, the volume of spending on measures to help unemployed adults is declining significantly and the resources allocated to active labour market policy measures have fallen proportionately far short of those allotted to them by several comparable European countries.

5. The Government emphasises that the interested parties are fully involved at the national, sectoral and local level in the formulation and implementation of employment policies, and that it takes care to conduct broad consultations with the social partners before introducing new legislation in these fields. The TUC, in contrast, considers that, by diminishing the role of tripartite bodies in which questions of employment and training can be discussed, the

Government is failing to apply Article 3 of the Convention. In this connection it refers to the abolition of the tripartite Training Commission and the reduction in the frequency of meetings of the National Economic Development Council (NEDC), and states that its proposals for serious discussion of employment policies have been repeatedly rejected by the Government.

6. The Committee notes with regret the persistence of difficulties in establishing direct dialogue and of a profound difference of appreciation between the Government and the TUC concerning the employment policies and their conformity to the provisions of the Convention. With regard to the choice and hierarchy of the Government's economic policy objectives and the deterioration that has taken place in the employment situation since its last comments, the Committee would be grateful if the Government would specify in its next report how, pursuant to Article 2 of the Convention, it keeps under review the measures and policies adopted according to the results achieved in pursuit of the objectives specified in Article 1. It recalls that, in the terms of that Article, an active policy designed to promote full, productive and freely chosen employment should be pursued "as a major goal". Such a policy should aim at ensuring that there is every opportunity for each worker to qualify for a job for which he is well suited, irrespective in particular of sex, race or colour. In view of the trends observed, the Committee can only ask once again for 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 basic obligations under the Convention. The Government continues to bear the primary responsibility in this matter, as the Conference Committee has already had occasion to point out. With regard in particular to the requirements concerning consultation and cooperation with employers' and workers' organisations in the formulation and implementation of employment policies, the Committee hopes that the Government's report will feature new elements relating to consultation with the persons affected calculated to alleviate the Committee's serious concern with regard to the effective application of Article 3 of the Convention. As regards certain questions of vocational guidance and training, it again refers to its comments under Convention No. 142. Lastly, it repeats its recommendation that the next report should be communicated to the organisations of employers and workers and should be transmitted by the due date in order to facilitate the necessary tripartite dialogue as well as the Committee's own examination.

#### Uruguay (ratification: 1977)

The Committee takes note of the Government's report, which contains a detailed reply to its direct request of 1990.

1. In its report, the Government states that its employment policy strategy has been centred on assisting in the pursuit of macroeconomic goals and balances. It states that the decision to resort to a programme of structural adjustment of the economy designed to create the conditions for its sustained growth has been the means

of achieving an increase in employment in sectors of activity connected with the production of goods saleable in subregional and extracontinental trade. Priority has been given to jobs in the field of productive employment through incentives for the export of manufactures, the strengthening of state credits for small and medium-sized undertakings, and the support of private efforts for the training, administration and management of undertakings. The greatest problems confronting the Government in attaining the goal of full employment are said to be the high inflation rate, the competition confronting national products in international markets, difficulties in raising the level of investment, and the rise in the price of oil. The Government states that, as a result of the "lost decade of the 1980s", unemployment is of a "structural" nature.

2. The Committee thanks the Government for its analysis of the particular difficulties that have arisen in pursuing the objectives of the Convention. It trusts that the Government will continue its efforts to declare and pursue, "as a major goal", an active employment policy within the framework of a coordinated economic and social policy (Articles 1 and 2 of the Convention). In this connection the Committee also refers to Part IX of the Recommendation (No. 169) concerning Employment Policy (Supplementary Provisions), 1984, annexed to the report form for the Convention, and trusts that a fair distribution of the social costs and benefits of structural adjustment will be promoted; it asks the Government to be good enough to supply in its next report information concerning the measures designed to bring the supply of and demand for labour into harmony with the consequent structural changes. The Committee would like to continue receiving detailed information on the situation, level and trends of employment in the country and on the degree to which the employment objectives included in development plans and programmes have been attained.

3. The Government indicates that in the Higher Wage Council, over and above professions of good will, it appears that the employers are prepared to increase employment if that does not increase costs and that the workers are also prepared for employment to be expanded provided that the goals claiming real growth of wages are not scaled down. The Committee hopes that efforts will be stepped up to ensure that the persons (representatives of employers' and workers' organisations and of other sectors of the economically active population, such as those working in the rural sector and in the informal sector) concerned with the measures to be adopted are consulted with a view to taking their experience and views fully into account in formulating and executing employment policy (Article 3).

4. In a direct request, the Committee is requesting information on the relationship between the restriction of overtime and the employment policy, the measures adopted in favour of certain categories of workers, the relationship between employment policy and vocational training and the technical cooperation provided by the ILO in the field of the Convention.

Venezuela (ratification: 1982)

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. 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 cooperation 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.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Austria, Comoros, Cuba, Cyprus, Czechoslovakia, Djibouti, Ecuador, Greece, Guatemala, Guinea, Honduras, Islamic Republic of Iran, Iraq, Israel, Jamaica, Japan, Jordan, Lebanon, Libyan Arab Jamahiriya, Mongolia, Morocco, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Romania, Russian Federation, Senegal, Sudan, Thailand, Uganda, Uruguay, Yugoslavia.

### **Convention No. 123: Minimum Age (Underground Work), 1965**

#### Bolivia (ratification: 1977)

The Committee notes with interest the Government's statement in its report to the effect that the question may soon be submitted for consideration by the National Congress, after consultation with the most representative organisations of employers and workers, of notifying the Director-General of the ILO of an increase to 18 years of the minimum age for admission to employment in underground work, as provided for in Article 3 of the Convention.

The Committee requests the Government to supply information on the progress achieved in this respect.

#### Czechoslovakia (ratification: 1968)

The Committee notes with satisfaction the adoption of Decree No. 91 939/90 of 12 October 1990 concerning the prohibition of underground work for workers under 21 years of age which has increased the minimum age for admission to employment underground in mines from the previous age of 18 years to 21 years.

#### Rwanda (ratification: 1970)

In the comments that it has been making since 1974, the Committee has noted the Government's intention to bring its legislation into conformity with the Convention. It also notes that the Government, in the third quarter of 1990, requested and received an opinion from the Office relating to a draft amendment to the Labour Code with regard to Articles 2 and 4 of the Convention. The Committee notes, according to the Government's report, that no provision has yet been adopted in this respect. It hopes that the Government will rapidly be in a



position to supply information on the measures that have been taken in order to determine:

- (a) in accordance with Article 2 of the Convention, that a minimum age of 18 years shall be set for admission to employment or to underground work in mines, including employment and underground 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 specified by the Government, namely persons less than 20 years of age in the case of Rwanda, and that these records shall indicate the date of birth of these persons and the date on 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 for in order to ensure the effective enforcement of the minimum age that has been fixed.

Zambia (ratification: 1967)

In the previous comments, the Committee has noted that, according to regulation 2117(2) of the Mines Regulations of 1971, the rule laid down in regulation 2117(1) prohibiting the employment underground of youth under the apparent age of 18 does not apply to young persons employed for purposes of apprenticeship or other systematic vocational training provided under adequate supervision by competent persons. Since 1975, the Committee has stressed the need to restrict the exception to the minimum age of 18 allowed by regulation 2117(2) of the Mines Regulations of 1971, in conformity with Article 2 of the Convention.

The Committee notes, once again, from the report of the Government that the amendment of the Mines Regulations of 1971 is nearing completion. The Committee hopes that the draft text, referred to by the Government since 1978, will be adopted as soon as possible.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Cyprus, Gabon, India, Malaysia, Nigeria, Spain, Thailand, Uganda.

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

**Convention No. 124: Medical Examination of Young Persons  
(Underground Work), 1965**

Greece (ratification: 1981)

Further to its previous comments, the Committee notes with satisfaction the adoption of Act No. 1837 of 1989 on the Protection of



Minors in Employment and Other Provisions and of Presidential Decree No. 7 of 12 January 1990 on medical examinations of young people for fitness for heavy, unhealthy and dangerous work, which give effect to Article 2, paragraph 1, of the Convention (medical examinations at intervals of not more than one year for persons under 21 years of age) and Article 4, paragraph 5, (making available to the workers' representatives, at their request, information concerning persons under 21 years of age).

\* \* \*

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

### **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 from the Government's latest report that the drafting of regulations under section 87 of the Shipping Act (No. 24 of 1987) has been actively engaging the attention of the Minister of Works, Infrastructure and Decentralisation. It notes with interest that, in the continuing absence of legislation to give effect to the Convention, the Government is positively exploring, with the relevant agencies, the Committee's suggestion of the possibility of requesting appropriate

assistance from the ILO in drafting regulations. It hopes progress will be made soon and that the Government will provide details.

\* \* \*

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

### **Convention No. 126: Accommodation of Crews (Fishermen), 1966**

Sierra 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.

\* \* \*

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

### **Convention No. 127: Maximum Weight, 1967**

Madagascar (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:

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. It is more than 20 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.

\* \* \*

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

### **Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967**

#### **Libyan Arab Jamahiriya (ratification: 1975)**

The Committee takes note of the Government's report. It notes with regret that the Government merely states that the observations of the Committee of Experts do not require any amendment to the legislation in force. The Committee recalls that since 1982 it has been drawing the Government's attention to the need to provide information on the way in which effect is given to Part V, Article 29,

of the Convention (Review of cash benefits currently payable) 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 observations that it made in 1989, concerning Conventions Nos. 102 and 128, in which it considered 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 the Government's particular attention, in particular as concerns the general economic climate of today. The Committee therefore asks 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 trusts that the Government's next report will also contain a detailed reply to the questions that it has been raising for many years and to which it refers in a request addressed directly to the Government.

The Committee would suggest that the Government might wish to request technical assistance from the ILO.

\* \* \*

Requests regarding certain points are being addressed directly to the following States: Bolivia, Libyan Arab Jamahiriya, Venezuela.

### **Convention No. 129: Labour Inspection (Agriculture), 1969**

#### Bolivia (ratification: 1977)

The Committee notes the reply to its 1990 observation, in which, as the Government stated previously in its 1989 report, it would be neither appropriate nor practical to establish a system of labour inspection in agriculture as prescribed by the Convention. The Government gives two grounds for this: the lack of standards to regulate the rights and duties emanating from agricultural labour (except in the case of sugar cane and cotton harvest workers who, by two Supreme Decrees of 1983 and 1984, were brought within the scope of the General Labour Act and its Regulatory Decree); and the sparsity of and difficulty of access to agricultural undertakings.

The Committee notes with regret that little progress has been made in applying the Convention, which Bolivia ratified in 1977. The Committee wishes to express once again its hope that the measures needed to establish a system of inspection covering all agricultural undertakings will be adopted; it asks the Government to supply any available information on the progress made in this respect.

[The Government is asked to supply full information at the 79th Session of the Conference.]

Colombia (ratification: 1976)

Articles 1, 4, 14, 18 and 21 of the Convention. The Committee notes from the new information provided by the Government that only undertakings with a highly profitable infrastructure are considered "agricultural undertakings" and inspected as such. At the same time, the "intermediate sector" employs during harvest time young persons and women who are said to be unprotected as regards occupational safety and health. The Committee would be glad if the Government would indicate what measures are proposed to ensure that the system of labour inspection will in future apply to all agricultural undertakings as defined in the Convention.

Italy (ratification: 1981)

Relevant questions are raised under Convention No. 81, in points 1, 2 and 3 of the Committee's observation.

Syrian Arab Republic (ratification: 1972)

Article 16, paragraph 3, of the Convention. For many years the Committee has been asking the Government to amend section 248 of the Act to organise agricultural relations so as to provide for the notification not only of the employer or his representative of an inspector's presence at the workplace, but also the workers or their representatives. The Committee notes the information provided by the Government indicating that an appropriate amendment is envisaged. The Committee hopes a copy will be forwarded soon.

Articles 26 and 27. In previous comments, the Committee noted that statistical tables appended to the Government's reports did not contain the information required, nor had annual reports on the work of the inspection services in agriculture been published or communicated to the ILO. The Committee notes from the Government's report that instructions have been given to include within an annual report the statistical series required by the Convention. In this regard, the Committee notes that information required by Article 27, paragraphs (a) (laws and regulations relevant to the work of labour inspection in agriculture), (c) (statistics of agricultural undertakings liable to inspection and the number of persons working therein), (f) (statistics of occupational accidents, including their causes) and (g) (statistics of occupational diseases, including their causes), were not included in the most recent annual report the Committee has reviewed, that for 1988. The Committee recalls the importance of annual inspection reports as a means of verifying that legal provisions are being supervised in agricultural undertakings in accordance with Article 21. It hopes that the necessary measures will soon be taken to ensure that a full annual inspection report is properly published and sent to the ILO as required by the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Colombia, Costa Rica, Côte d'Ivoire, France, Guyana, Kenya, Madagascar, Malta, Morocco, Netherlands, Portugal, Romania, Uruguay.

### Convention No. 130: Medical Care and Sickness Benefits, 1969

Costa Rica (ratification: 1972)

Article 16, paragraphs 1 and 2; Article 22, paragraphs 1 and 5-9; and Article 26, paragraphs 1 and 3, of the Convention. The Committee has noted with satisfaction that sections 26, 33 and 35 of the Sickness and Maternity Insurance Regulations were amended on 20 April 1987 and 3 November 1988, thus giving fuller effect to these provisions of the Convention. The Regulations as amended now provide for the grant of the benefits of medical care and, with effect from the fourth day of incapacity, of cash benefits (the amount of which has been increased to 60 per cent of the insured person's previous wages) throughout the contingency (up to a maximum of one year in the case of cash benefits) in respect of economically active insured persons. They also provide for the maintenance of the right to medical care in the case both of economically active insured persons and of relatives for six months following the date on which the person concerned ceased to be an economically active insured person. Lastly, the benefits are no longer subject to a ceiling.

The Committee would like the Government to supply full information on the questions addressed to it in a direct request.

Finland (ratification: 1974)

Article 17 of the Convention. In its previous comments, the Committee noted the comments transmitted by the Central Organisation of Finnish Trade Unions (SAK) to the effect that, because the communities did not have enough capacity to provide basic municipal health care, insured persons had been forced to resort to private health services; some 30 per cent of the costs incurred were refunded. The Committee consequently pointed out that, under Article 17 of the Convention, the rules concerning sharing by the beneficiary or his breadwinner in the cost of medical care should be so designed as to avoid hardship and not to prejudice the effectiveness of medical and social protection.

In its reply, the Government states that medical care is the responsibility of the municipalities, particularly in the case of emergency treatment. It states that, if a patient also resorts for any reason to the care of a private physician, such care is reimbursed at 60 per cent of the rate approved by the Ministry of Social Affairs and Health, on the basis of the sickness insurance scheme. The same applies to examinations and treatment given at private hospitals or in special categories of municipal establishments.

The Committee has noted this information with interest. It would be grateful if the Government would indicate whether and, if so, for what reasons and under what conditions (for example owing to a possible inadequacy of the medical or hospital infrastructure at municipal level) insured persons may find it necessary in practice to resort to the services of private physicians or to undergo treatment in private hospital establishments. In this connection it asks the Government to supply statistics on the number of insured persons resorting to private medicine (whether for out-patient or in-patient care) in proportion to the total demand for care. Furthermore the Committee would also like the Government to indicate whether and how far the rates of reimbursement applied to consultations with private physicians and hospital care by the sickness insurance scheme correspond to the actual fees of physicians or hospitals.

Germany (ratification: 1974)

1. The Committee notes the information supplied by the Government in its report, as well as the entry into force on 1 January 1989 of a new codification of the law on the statutory sickness insurance scheme, which was incorporated in the Social Code (Book Five (SGB V)). It also notes with satisfaction from the Government's reply to its previous comments that as a result of a ruling of the federal Constitutional Court, section 49 of Book V of the Social Code provides that the claim to sickness benefit, in so far as it exceeds the other social benefits listed therein, is not suspended. This is in conformity with Article 26 of the Convention (read together with Article 28, paragraph 1(h)).

2. The Committee draws the Government's attention to certain points which it raises in a direct request.

Libyan Arab Jamahiriya (ratification: 1975)

The Committee has taken note of the Government's report. It notes with regret that the Government confines itself to indicating that the observations of the Committee of Experts do not require a change in the laws in force. The Committee points out that for many years it has been drawing the Government's attention to the need to take measures to ensure the application of certain provisions of the Convention and to supply additional information on a number of points so that it may assess how far the provisions of the Convention are put into effect.

In these circumstances, the Committee is compelled to revert to the subject in a new direct request, in the hope that the Government will not fail to supply the information requested.

The Committee ventures to draw the Government's attention to the possibility of having recourse to the technical assistance of the ILO.

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



Venezuela (ratification: 1982)

Part II (Medical care), Article 10, and Part III (Sickness benefit), Article 19 of the Convention (Scope of application). The Committee notes the comments transmitted by the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS) on the extension of the social security scheme. It refers to its comments in a request that is being addressed directly to the Government.

\* \* \*

Requests regarding certain points are being addressed directly to the following States: Bolivia, Costa Rica, Czechoslovakia, Germany, Libyan Arab Jamahiriya, Venezuela.

**Convention No. 131: Minimum Wage Fixing, 1970**

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

**Convention No. 132: Holidays with Pay Convention (Revised), 1970**Burkina Faso (ratification: 1974)

The Committee is raising certain questions relating to Article 9, paragraph 1, of the Convention in a direct request.

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

Guinea (ratification: 1977)

Further to its earlier comments, the Committee notes with satisfaction that Ordinance No. 003/PRG/SGG/88, of 26 January 1988 brings into effect the Labour Code, section 162 of which provides, in accordance with Article 6, paragraph 2, of the Convention, that days of sickness may not be deducted from annual leave.

Iraq (ratification: 1974)

The Committee is raising certain questions in relation to Article 6, paragraph 1; Article 8, paragraph 2; Article 9, paragraph 1; and Article 11 of the Convention in a direct request.

[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: Burkina Faso, Germany, Iraq, Luxembourg, Madagascar, Malta, Norway, Yemen.

### Convention No. 134: Prevention of Accidents (Seafarers), 1970

#### France (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:

Referring to its previous observations, the Committee noted that Decree No. 85-1255 of 4 November 1985, concerning committees for health, safety and conditions of work in maritime enterprises, provides for the setting up of committees including representatives of personnel responsible for overseeing the implementation of safety provisions on board ship, including inspection visits and investigations. While noting with interest that this Decree aims at improving occupational accident prevention for seafarers, the Committee noted that it contains no provisions which would give effect to the following provisions of the Convention, which have been the subject of comments for many years:

Article 4, paragraph 3(c), (g) and (i), of the Convention (measures for the personal protection of seafarers against accidents that may be caused by machinery or by anchors, chains and lines; and supply and use of personal protective equipment).

Article 5 (obligation of shipowners, seafarers and others concerned to comply with the provisions on safety and accident prevention).

Article 6, paragraph 4, and Article 9, paragraph 2 (measures to bring to the attention of seafarers the provisions on accident prevention in general and to call their attention to particular hazards).

The Committee trusts that the Government will take the necessary measures in order to ensure full application of the Convention on these points in the very near future.

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

#### Nigeria (ratification: 1973)

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

The Committee noted the information supplied by the Government in its report and reply to the previous observation, as well as the information submitted to the Conference Committee in 1989. The Committee also has taken note of the provisions of statutory instruments communicated in reply to earlier requests.

Article 2 of the Convention. The Committee previously had asked for the supply of copies or relevant extracts of reports of inquiry into occupational accidents, as well as samples of statistics compiled in conformity with the provisions of the Convention. In its report, the Government had supplied details concerning accidents in which lives were lost on Nigerian ships from 1983 to February 1989; the Government has indicated that accidents on board ships are reported only when the ship sustains a structural damage or when there is loss of life or serious injury; however, private and government shipping companies keep records of minor accidents. The Committee must point out that under Article 2, paragraph 2 of the Convention, all occupational accidents shall be reported and statistics shall not be limited to fatalities or to accidents involving the ship. The Committee accordingly hopes that records of minor accidents kept by private and government shipping companies will be integrated into reporting procedures and statistics and that, in accordance with Article 2, paragraph 1, the Government will take the necessary measures to ensure that occupational accidents are adequately reported and investigated, and comprehensive statistics of such accidents kept and analysed.

Article 3. The Committee noted the Government's indication in its report that no research had been conducted into the causes and prevention of accidents aboard Nigerian ships. However, it appears from the breakdown given in the Government's report that several accidents involving loss of life were caused by the severance of stage ropes or the sudden cut of the mooring ropes, and that, furthermore, all the accidents reported occurred when the ships were anchored in ports or when they were about to be moored. The Committee hopes that the Government will take the necessary measures for research to be undertaken into these general trends and hazards revealed by statistics, in order to provide a sound basis for the prevention of accidents which are due to particular hazards, as provided in the Convention.

Articles 4 and 5. In previous comments, the Committee had asked the Government to provide copies of any rules in force under the Merchant Shipping Act for the prevention of accidents which cover the various matters listed in particular in these Articles. The Committee had taken note of the provisions of the Merchant Shipping (Fire Appliances) Rules, 1967, which give effect to Article 4(3)(f) of the Convention, and the Merchant Shipping (Life-Saving Appliances) Rules, 1967, supplied by the Government. It hopes that the Government will soon be able to supply details of similar provisions adopted or contemplated to prevent occupational accidents and covering the specific field of stage and mooring ropes (Article 4(3)(h)) as well as the various matters listed in Article 4(3)(a), (b), (c), (d) and (i).

Article 7. The Committee noted with interest the Government's indication in its report that it is the responsibility of National Surveyors and Engineers, who were crew members on board, to conduct inspection on board ship, and that there was also a safety or accident committee on board, chaired by the Master, with the Chief Engineer, the Chief Officer, the

Second Engineer and the Radio Officer as members; duties are assigned to each member, meetings are held at specified intervals and proceedings are documented in the official log book. The Committee hopes that the Government will supply a copy of a statutory instrument making provision for the practice described.

Articles 8 and 9. The Committee noted the Government's indication in its report that senior officers on board Nigerian ships do give lectures and conduct exercises on accident prevention for other crew members on specified periods. The Committee hopes that the Government will supply further details concerning the tripartite establishment and implementation of programmes for the prevention of occupational accidents (Article 8) and the inclusion of instruction in accident prevention and health protection in the curricula of vocational training institutions for all categories and grades of seafarers (Article 9(1)).

The Committee hopes that the Government will take, in the very near future, all necessary measures to give effect to the Convention both in law and in practice and that it will soon report on the measures taken or contemplated.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Denmark, Japan, Poland, United Republic of Tanzania.

### **Convention No. 135: Workers' Representatives, 1971**

#### Netherlands (ratification: 1975)

The Committee notes the Government's report and the comments made by the Netherlands Trade Union Federation (FNV) regarding the protection and facilities that should be afforded to the workers' representatives referred to in Article 3 of the Convention.

The Committee notes that the Government repeats its previous statement that there is no obligation under the Convention, as is clear from Article 4, on States that have ratified it to provide protection and facilities to both the categories of workers' representatives defined in Article 3.

The FNV again observes that both the categories of workers' representatives referred to in Article 3 should receive the facilities and protection established in the Convention, and that Bill No. 21479 to amend the legislation on dismissal and prohibiting dismissal for carrying out trade union activities does not change the existing legislation which protects only members of works councils (established in accordance with the Act respecting enterprises with fewer than 35 workers).

The Committee notes Bill No. 21479 and asks the Government to inform it of the adoption of the Bill in its next report.

With regard to the FNV's comment, the Committee has already pointed out that, in the light of the wording of Article 4 of the Convention which permits a certain flexibility in the choice of workers' representatives, the present system does not infringe the requirements of the Convention. It recalls, however, that it is important to apply a reasonable criterion to ensure that workers' representatives in certain small enterprises are not denied the protection and facilities laid down in the Convention.

Poland (ratification: 1977)

The Committee takes note of the Government's report and notes with satisfaction that the new Trade Union Act of 23 May 1991 ensures better application of the Convention.

Romania (ratification: 1975)

The Committee notes the texts of the three fundamental labour laws adopted by the Romanian Parliament: Act No. 54 concerning trade unions of 1 August, Act No. 13 concerning collective labour agreements of 8 February 1991, and Act No. 15 concerning the settlement of collective labour disputes of 11 February and the new Constitution of 8 December 1991.

The Committee notes with interest that the new texts, and the repeal of several legislative provisions which had been the subject of its previous observations, change the general orientation of the industrial relations system, establish trade union pluralism and the independence of the trade union movement, and provide a number of protective measures for workers' representatives.

Spain (ratification: 1972)

The Committee takes note of the Government's report and the observations submitted by the General Union of Workers (UGT). The UGT states that there are certain practical shortcomings in the provisions covering the guarantees to enable workers' representatives to carry out their functions, and refers specifically to the use of time off. The Committee takes due note of the court decisions attached to the Government's report concerning the UGT's complaints regarding time off.

In addition, the Committee notes with interest the promulgation of the Act respecting labour procedure issued by Royal Legislative Decree No. 521/1990, repealing the Act on labour procedure issued by Royal Legislative Decree No. 1568/1980, and the promulgation of Act No. 2/1991 of 7 January 1991, extending the functions of workers' representatives with regard to labour contracts.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Austria, Costa Rica,

Hungary, Iraq, Jordan, Malta, Romania, Rwanda, Sweden, United Republic of Tanzania, Republic of Yemen.

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

### Convention No. 136: Benzene, 1971

Bolivia (ratification: 1977)

Further to its previous comments, the Committee notes the information provided in the Government's report. The Government has indicated that, as the competent technical bodies are presently working toward the elaboration of regulations concerning asbestos, the elaboration of regulations concerning the use of benzene and products containing benzene will still take some time. The Committee notes with regret, however, that the main provisions of the Convention are still not applied. The Committee, therefore, urges the Government to take the necessary measures in the near future to ensure the application of Article 1(b) of the Convention (the protective measures elaborated must not only apply to benzene, but also to products the benzene content of which exceeds 1 per cent by volume); Article 2 (whenever harmless or less harmful substitute products are available they shall be used instead of benzene or products containing benzene); Article 4, paragraphs 1 and 2 (prohibition of the use of benzene or products containing benzene in certain work processes, including, at least, the use of benzene as a solvent or diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work); Article 6, paragraphs 1, 2 and 3 (measures shall be taken to prevent the escape of benzene vapour into the air and the maximum limit of the concentration of benzene in the air shall not exceed 25 parts per million; directions shall be issued on carrying out the measurement of the concentration of benzene in the air); Article 7, paragraph 1 (the regulation of work processes involving the use of benzene or products containing benzene generally to be carried out, as far as practicable, in an enclosed system); and Article 11, paragraphs 1 and 2 (prohibition of the employment of pregnant women, nursing mothers and young persons under 18 years of age in work processes involving exposure to benzene or products containing benzene).

Article 9. The Committee notes from the Government's report that the draft regulations concerning medical services include as part of the general routine medical examinations prior to employment, during employment and thereafter. The Government has added that, during the final review of this draft, special account will be given, if necessary, to the question of referring to the use of benzene, the risks for exposed workers and the medical examinations necessary. The Committee would recall that this Article of the Convention calls for all workers employed in work processes involving exposure to benzene and products containing benzene to undergo pre-employment medical examinations, including a blood test, to determine fitness for employment and periodic re-examinations, including biological tests



and blood tests. It hopes that the Government will take the necessary measures in the near future to ensure the application of this Article and requests the Government to indicate the measures taken or envisaged to ensure that workers exposed to benzene undergo a pre-employment medical examination sufficient for determining the workers' fitness for employment and including a blood test, and periodic re-examinations, including biological tests. The Government is also requested to indicate the frequency with which the periodic re-examinations are to take place and the types of biological tests provided.

Côte d'Ivoire (ratification: 1972)

In comments the Committee has been making since 1976, it has noted that there are a number of provisions of the Convention which are not applied by the legislation in force. Since 1984, the Government has referred to the text of a draft decree which had been approved by the Health and Safety Advisory Committee and which was to be adopted in order to bring Decree No. 67-321 of 21 July 1967 into conformity with all provisions of the Convention. In its latest report, the Government has made no mention of this draft decree and has only referred to the legislation which, as the Committee has already noted, does not fully meet the requirements of the Convention. The Committee trusts that the Government will soon take the necessary measures through adoption of the draft decree or otherwise, to ensure that effect is given to the following Articles of the Convention, and that the Government will indicate the action taken.

Articles 1 and 4 of the Convention. In previous comments, the Committee had noted that section 4 D 453 of Decree No. 67-321 of 21 July 1967 prohibited the use of benzene as a solvent, but defined products containing benzene for this use in terms of the level of distillation. The Committee had recalled that, under Article 1 of the Convention, its provisions are to be applied to benzene and products the benzene content of which exceeds 1 per cent by volume. The Committee expressed the hope that the necessary measures would be taken to ensure that the prohibition of the use of benzene or products containing benzene as a solvent, established in section 4 D 453 would be amended so as to cover the use as a solvent of products containing more than 1 per cent by volume of benzene. The Government is requested to indicate the progress made in this regard.

Article 2, paragraph 1. Measures need to be taken, in accordance with this Article of the Convention, to ensure that the use of benzene or products containing benzene will be replaced by harmless or less harmful substitute products whenever such products are available.

Article 6, paragraph 2. Measures need to be taken, in accordance with this Article of the Convention, to ensure that the level of concentration of benzene vapour in the air does not exceed 80 mg/m<sup>3</sup>.

Article 8, paragraph 1. The Committee notes from the Government's report that protective equipment, notably respiratory masks, must be provided to workers involved in painting work. The Committee would recall that this Article of the Convention calls for personal protective equipment to be provided for workers who may for



special reasons be exposed to concentrations of benzene vapour in the air of places of employment exceeding the maximum permissible level set forth in Article 6, paragraph 2, of the Convention. The Government is therefore requested to indicate the measures taken to ensure that workers in all types of activities involving exposure to benzene, who may be exposed to especially high levels of benzene vapour, are provided with personal protective equipment and to indicate the manner in which the duration of exposure in such circumstances is limited as far as possible.

Article 11, paragraph 2. The Committee notes that the recommendation to doctors annexed to Part XVII, Chapter II, Title II of the Labour Code provides that there is reason to consider young women under the age of 18 as unfit for work likely to cause benzene poisoning. The same recommendation is made for young men under 18, unless special medical authorisation is given. The Committee notes from the Government's report that this recommendation is legally binding. The Committee would recall that Article 11 of the Convention provides that young persons under the age of 18 shall not be employed in work processes involving exposure to benzene, but that this prohibition need not apply to young persons undergoing education and training who are under adequate technical and medical supervision. The Government is requested to indicate the manner in which it is ensured that special medical authorisation for young men under the age of 18 is only granted to those persons who are involved in work involving exposure to benzene for reasons of education and training and only where it can be ensured that the adequate technical and medical supervision is provided.

#### Morocco (ratification: 1974)

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

In its previous observation, the Committee noted that the regulations part of the draft Labour Code contained provisions to give effect to a certain number of provisions of the Convention which had not been applied by national legislation previously. The Committee had, however, noted that the draft communicated by the Government called for improvement on the following points: in accordance with Article 3 of the Convention, provision should be made for the consultation of the most representative employers' and workers' organisations concerning the granting of temporary exemptions by labour inspectors under section 502 of the draft regulations; also, in accordance with Article 8, paragraph 1, measures needed to be taken to ensure adequate means of personal protection for workers who may have skin contact with liquid benzene or products containing benzene. The Committee noted the Government's statement in its report for the period ending 30 June 1989 that these comments had been taken into consideration in the latest draft of the regulations part of the Labour Code. The Committee once again expresses the hope that the amended draft will be adopted in the very near future and

that, in its final form, it will give full effect to the Convention.

Spain (ratification: 1973)

The Committee takes note of the detailed information provided in the Government's report for the period ending 30 June 1991 in reply to its previous observation. It also notes the comment made by the Trade Union Confederation of Workers' Commissions (CC.OO.) that the observations which they had made in 1989 concerning the application of the Convention remain valid, since over 150,000 workers continue being exposed to benzene in the explosives, rubber, tanning, footwear, refining and distillation, dyeing, printing and production of DDT industries.

1. In its previous comments, the CC.OO had indicated that benzene is used principally as a solvent or diluent in open spaces. The Committee had recalled that, under Article 4, paragraph 2 of the Convention, the use of benzene as a solvent or diluent is to be prohibited, unless the process is carried out in an enclosed system or where there are other equally safe methods of work. The Committee notes that under section 5 of resolution No. 6248 of 15 February 1977, work with benzene and with products containing benzene (presumably including the use of benzene as a solvent or diluent) shall be carried out in an enclosed system whenever possible and, in its absence, other safety measures must be assured. It further notes that paragraph 2 of section 2 of the resolution strictly prohibits any work with products containing benzene to be performed outside of those workplaces where the implementation of the instructions contained in this resolution can be adequately and permanently monitored. In this regard, the Committee had previously noted that, by virtue of Article 14(c) of the Convention, the Government has undertaken to provide appropriate inspection services for the purpose of supervising the application of the Convention. The Committee notes the information provided by the Government concerning a specific action plan undertaken by the inspection service to send questionnaires to be filled out in all enterprises in which products containing more than 1 per cent by volume of benzene are used, including, in particular, the chemical, shoe, and tanning industries. The Committee requests the Government to send a copy of the report concerning the results of this action plan as soon as it is finished. In particular, the Committee requests the Government to indicate the number of workplaces in which benzene is used as a solvent or diluent and where, rather than using an enclosed system, other safety measures are used. In such instances, the Committee requests the Government to indicate which methods of work are used, whether these are considered equally safe as using an enclosed system, and if so, for what reasons.

2. In its previous observation, the Committee had noted the statistics provided by the CC.OO. which indicated that workers in the explosives, rubber, tanning, footwear, refining and distillation, dyeing, printing and production of DDT industries had suffered from a variety of occupational diseases which, although not exclusively linked to benzene exposure, could result from an exposure to benzene

or exposure to a number of substances, including benzene. The Committee notes with interest from the Government's report that, as a consequence of the labour inspectorate's action plan, many enterprises have indicated their decision to substitute benzene with other less harmful products. It requests the Government to continue to provide information on the measures taken to ensure that, whenever harmless or less harmful substitute products are available, they shall be used instead of benzene or products containing benzene, in accordance with Article 2, paragraph 1.

3. The Committee notes from the information provided in the Government's report that, according to the data already made available from the labour inspectorate's action plan, out of 1,561 work centres, there were only 20 in which the fabrication or use of benzene was detected. It further notes that, in those enterprises which produce benzene, certain instructions had to be given concerning the existing standards and that in some enterprises infractions were noted. The Committee requests the Government to indicate the types of infractions detected and, in particular, whether there were any cases of worker exposure to a concentration of benzene in the air exceeding 25 parts per million, contrary to the maximum limit value expressed in Article 6, paragraph 2 of the Convention and section 2 of the resolution.

4. In its previous observation, the Committee had noted that both the CC.OO. and the Government had made reference to black market enterprises involving the use of benzene in work processes in which certain provisions of the Convention were not adequately complied with, such as, in particular, the employment of pregnant and nursing mothers in such work processes, contrary to Article 11, paragraph 1. The Committee requests the Government to supply information on any efforts made by the labour inspectorate to investigate the possible use of benzene in black market enterprises and to ensure, by means of sanctions or otherwise, that pregnant and nursing mothers are not employed in any work processes involving the use of benzene, as required by section 10(c) of the 1977 resolution.

#### Zambia (ratification: 1973)

1. The Committee notes the Government's statement in its latest report that it agrees with the Committee's previous comments as concerns the application of the Convention and that it would advise the ILO of the progress and developments made. The Committee, therefore, hopes that the necessary measures will be taken in the near future to ensure the application of Article 4, paragraph 2 of the Convention (prohibition of the use of benzene as a solvent or diluent unless the process is carried out in an enclosed system (and not area)), Article 7 (work processes involving the use of benzene generally to be carried out in an enclosed system as far as practicable, and where not practicable, the workplace shall be equipped with effective means to ensure the removal of benzene vapour), and Article 8, paragraph 2 (limitation on the duration of exposure to benzene vapour for workers who, for special reasons, are exposed to concentrations of benzene exceeding the maximum prescribed

level). The Government is requested to indicate, in its next report, the progress made in this regard.

II. The Committee notes from the reply in the Government's report as concerns the application of Article 6, paragraph 3 of the Convention (instructions on carrying out the measurement of benzene in the air), that the Government is currently processing a request for ILO technical co-operation. The Committee hopes that the Government will, with the assistance of the ILO, soon be in a position to ensure the appropriate monitoring of the concentration of benzene in the air of places of employment by means of adequate instructions on the carrying out of the measurement of such concentrations. The Government is requested to indicate, in its next report, the progress made in this regard.

The Committee further notes the Government's statement in its report that the Government hopes that ILO technical assistance will enable it to improve the practical application of the Convention. The Committee hopes that the Government will take the necessary measures to improve the application of the Convention in practice and that it will ensure the enforcement of the provisions designed to give it effect, including, in particular, 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. The Committee hopes that the Government will soon be able to indicate the progress made in this regard.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Colombia, Ecuador, Finland, France, Guinea, Guyana, Iraq, Italy, Kuwait, Morocco, Nicaragua, Spain, Switzerland, Uruguay, Yugoslavia.

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

### Convention No. 137: Dock Work, 1973

#### Spain (ratification: 1975)

1. In its observation of 1990, the Committee addressed the comments of the Canary Islands Nationalist Autonomous Confederation (CANIC) and the Government's reply concerning the situation of workers enrolled in the Special Register of Dockworkers of the Port of La Luz and Las Palmas. The Committee asked the Government to indicate, in the light of the arguments presented, whether an unemployment benefit is granted immediately to all dockworkers to whom it has not been possible to assign work (Article 2, paragraph 2, of the Convention). It also asked the Government to indicate the manner in which it ascertains that the above-mentioned group of dockworkers is covered by appropriate safety, health, welfare and vocational training provisions (Article 6).

2. The Committee thanks the Government for the detailed information provided in its various communications.

In a report received in June 1990, the Government does not admit that the persons concerned engage in regular dock work and that most of their annual income comes from this work. The Government explains that the Special Register of the National Employment Institute (INEM) makes it possible to identify a group of persons who wish to work in the port and demonstrate that they have some idea of the work to be performed. The INEM Special Register also enables the unemployment benefits provided by the INEM to be processed. According to the Government, dockworkers either work permanently in the enterprises or intermittently but regularly in state companies established for such intermittent but regular work.

3. In a communication to the Office (duly transmitted to the Government), in July 1990, the National Federation of Dockworkers endorsed the comments on the Special Register of Las Palmas, drawing attention to what, in its opinion, is a contradictory and unfair situation, i.e. that on the one hand, workers are under the obligation to be present at daily calls while, on the other, they are not guaranteed remuneration or a minimum number of shifts. Like the workers registered as belonging to the state company or private enterprises who are guaranteed a minimum wage even for days on which there is no work for them, workers enrolled in a special register must be available daily and are under obligation to be present at the daily calls, but receive no remuneration for attending calls and being permanently available.

The Government submitted its observations on this matter in October 1990. These observations are also included in a detailed report on the application of the Convention, received in January 1991. According to the Government, the consolidation of the legal provisions governing this matter has, in practice, generally been well received by the employers' and workers' organisations, except in a few specific cases where disagreement arising from a surplus of personnel has been registered by the dockworkers' organisation. The Government reiterates that only workers who have a permanent employment relationship with a state company or a docking enterprise are covered by the Convention. The workers enrolled on the INEM Special Register do not have the requisite "occupational status" and "experience" to be qualified as dockworkers. By being on an INEM Special Register, they have priority access to the state company when the latter's staff is increased. It adds that not all ports have INEM Special Registers. Machinery is planned for the periodical review of the "operational staff".

4. The Convention provides that new methods of cargo handling may require systematic revision of the structure of employment in ports and that the employers' and workers' organisations concerned shall be consulted on the matter (see Article 1, paragraph 2, of the Convention and Part II of the Dock Work Recommendation, 1973 (No. 145) - contained in the annex to the report form for the Convention). The Committee notes that the workers enrolled on the Special Register are under the obligation to be present at each and every call. Accordingly, the Committee has given due consideration to the arguments presented by the dockworkers affected by the restructuring



measures. The Government, for its part, also refers to the possibility of conducting a review of personnel available for dock work. The Committee therefore trusts that, in its future reports, the Government will be able to indicate whether, in the light of developments in the situation in the port of Las Palmas, it will be possible to guarantee to workers enrolled on the Special Register "minimum periods of employment or a minimum income, in a manner and to an extent depending on the economic and social situation of the country and port concerned" - as required by Article 2, paragraph 2, of the Convention. In addition, the Committee trusts that the Government will continue to provide detailed reports which include information on other results achieved by the measures planned to attenuate the adverse effect on dockworkers of any reduction in the numbers in registers, both in ports of general interest and in ports administered by the autonomous communities. The Government might find it useful to refer to the provisions of Paragraphs 17 to 19 of Recommendation No. 145.

\* \* \*

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

### **Convention No. 138: Minimum Age, 1973**

Rwanda (ratification: 1981)

1. In the comments it has been making for several years, the Committee has noted the Government's intention to bring the national laws into conformity with the Convention. It notes that, in its report for the period ending 30 June 1991, the Government does not refer to any measure adopted or contemplated to that end. The Committee points out that the previous comments related to the following points:

Article 1 of the Convention. The minimum age for admission to employment or work applies to employment of any kind, including work done for one's own account. The Committee has noted that the provisions of sections 24 and 125 of the Labour Code apply only to wage-earning work and that under the provisions of section 186 agricultural workers are subject to special provisions laid down in a particular Act, which has not yet been adopted. The Committee asks the Government to indicate the measures taken or contemplated to ensure that no one under the specified minimum age is admitted to employment or work in any occupation, in particular in agriculture and in occupations where one works for one's own account.

Article 3. The Ministerial Order which is to specify the nature of work and the categories of undertakings barred to minors, for which provision is made in section 124 of the Labour Code, has not yet been adopted.

Article 7. Under sections 24 and 125 of the Labour Code, the Minister may grant exceptions to the minimum age for admission to

employment having regard to circumstances peculiar to the occupation or to the situation of the persons concerned. The Committee points out that the Convention provides for exceptions to the minimum age for admission to employment in the case of light work done by children over 13 years of age on condition that the work is not likely to be harmful to their health or development and not such as to prejudice their attendance at school. It asks the Government to indicate the measures taken or contemplated to clarify the scope of the exceptions provided for in those two sections in the light of the provisions of Article 7 of the Convention.

The Committee notes that in the third quarter of 1990 the Government requested and received the advice of the Office concerning a draft revision of the sections of the Labour Code designed in particular to give effect to the provisions of the Convention. It hopes that the draft text which takes the Office's advice into account will be quickly adopted, and asks the Government to supply a copy of the text adopted.

Article 2, paragraph 5. The Committee draws the Government's attention to the information which the Government is required to supply under Article 2, paragraph 5(a) or (b), of the Convention and requests it to include this in its forthcoming reports.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Belgium, Costa Rica, Cuba, Dominica, Equatorial Guinea, Finland, Germany, Greece, Honduras, Iraq, Ireland, Israel, Italy, Kenya, Libyan Arab Jamahiriya, Luxembourg, Malta, Nicaragua, Niger, Norway, Romania, Spain, Togo, Yugoslavia, Zambia.

### **Convention No. 139: Occupational Cancer, 1974**

#### General observation

#### Article 2 of the Convention

The Committee refers to its general observation under Convention No. 115, setting out, more particularly in paragraphs 4, 10 and 12, the recent findings of the International Commission on Radiological Protection concerning the probability of cancer and of death attributable to leukaemia and other cancers resulting from external or internal exposure of workers to ionizing radiations and radioactive substances. The Committee hopes that governments will review national legislation and policy on practices giving rise to such exposure in the light of Article 2 of the Convention.

Under Article 2, paragraph 1, of the Convention each member which ratifies this Convention shall make every effort to have carcinogenic substances or agents to which workers may be exposed in the course of their work replaced by non-carcinogenic substances or agents or by less harmful substances or agents. Under paragraph 2, the number of



workers exposed to carcinogenic substances or agents and the duration and degree of such exposure shall be reduced to the minimum compatible with safety.

The Committee accordingly hopes that governments will indicate the efforts made to have work processes involving occupational exposure to radioactive substances or ionizing radiations replaced with non-carcinogenic or less harmful alternatives, as well as the measures which may have been taken or which are envisaged to reduce the number of workers exposed to radioactive substances and ionizing radiation and the duration and degree of such exposure, to the minimum compatible with safety.

#### Finland (ratification: 1977)

The Committee notes the information provided in the Government's latest report and the comment made by the Central Organisation of Finnish Trade Unions (SAK) and the Confederation of Salaried Employees (TVK) transmitted by the Government. According to the SAK, the current grounds for the registration of workers exposed to carcinogenic substances is insufficient and inspections carried out by the labour protection authorities should be intensified. The Committee notes from the Government's report that a register is kept of persons exposed to carcinogenic substances by virtue of sections 10 and 11 of the Council of State Decision 583/85 concerning protection against the risk of cancer at work. Section 10 of Decision 583/85 further provides that the directorate of worker protection is responsible for ensuring that information concerning carcinogenic substances and the workers exposed to these substances is kept in a register. The Committee recalls that Article 3 of the Convention calls for the establishment of an appropriate system of records in respect of carcinogenic substances and, under Article 6(c), appropriate inspection services shall be provided for the purpose of supervising the application of the Convention. It would point out that Paragraph 15(2) of the Occupational Cancer Recommendation suggests that, in establishing a system of records, account should be taken of the assistance which may be provided by international and national organisations, including organisations of employers and workers. The Committee requests the Government to provide information in its next report concerning the practical application of the Convention as requested under point IV of the report form, in particular as concerns the means for ensuring accurate registration of workers exposed to carcinogenic substances.

#### Guinea (ratification: 1976)

In the comments that it has been making since 1983, the Committee has noted that no specific measures have been taken since the Convention was ratified to prevent and control occupational cancer in accordance with the Convention.

In 1990, the Committee noted that, during the discussion concerning the application of this Convention in the Committee on the

Application of Standards in the 1989 Conference, the Government expressed its wish for technical assistance from the ILO with a view to drawing up as quickly as possible an adequate legal framework for protection against occupational cancer. The Conference Committee hoped that practical progress could be reported before its 1990 meeting. This ILO technical assistance was provided prior to the International Labour Conference in 1990. In its latest report for the period ending 15 October 1991, the Government stated that the draft text concerning occupational cancer, formulated with the technical assistance of the ILO, would be signed in the very near future in order to give full effect to the provisions of the Convention.

The Committee once again hopes that the Government will make every effort to take the necessary measures in the very near future to give effect to the Convention.

#### Nicaragua (ratification: 1981)

In earlier comments, the Committee had noted that, apart from some provisions in the Labour Code that prescribe protective measures of a general nature, there are no laws or regulations to apply the provisions of the Convention; in 1987, the Government indicated that special efforts were made to establish standards on the safety measures to be taken to prevent the risks of occupational cancer. The Committee notes with regret that in its latest report, the Government has not supplied any information on the outcome of these efforts, as requested in 1988.

The Committee recalls that measures should be adopted to give effect in particular to the following provisions of the Convention: Article 1 (periodical determination of carcinogenic substances and agents to which occupational exposure must be prohibited or made subject to authorisation or control); Article 2 (replacement of carcinogenic substances and agents by others that are less harmful and reduction of the duration of exposure); Article 3 (special measures of protection against the risks of exposure and establishment of a system of records); Article 5 (medical or biological examinations of the workers concerned during the period of employment and thereafter).

The Committee hopes that standards will be established in accordance with Article 6(a) of the Convention to give effect to these provisions, that they will take account of the most recent information contained in the Codes of Practice and guides established by international bodies including the ILO, and that the Government will soon be in a position to report progress in this regard.

#### Peru (ratification: 1976)

1. In comments it has been making for several years, the Committee has noted that no specific provisions to prevent and control cancer have been adopted since the Convention was ratified.

The Committee notes with regret that, according to the information supplied by the Government in its report, no significant results have been reached by the public agencies working group which

was to propose legal measures to give effect to the Convention. It notes that, according to the information supplied by the Government, the General Directorate of inspection and occupational safety and health has been entrusted with drafting legislation to protect workers exposed to dangerous substances and recalls that States which have ratified the Convention are required, under most of its provisions, to take specific legal or technical measures concerning occupational cancer. In this regard, the Committee would call the Government's attention to the study on the prevention and control of occupational cancer, published by the ILO, which can serve as a guide in implementing the principles of the Convention and hopes that the necessary measures will be taken to protect workers against the risks of exposure to carcinogenic substances or agents as called for by the Convention. The Committee requests the Government to indicate any progress made in this regard.

2. The Committee notes that the Government has requested information concerning the application of the Convention from the National Institute of Neoplastic Diseases in connection with the National Institute of Occupational Health which it intends to transmit upon receipt. The Committee hopes that the Government will therefore furnish detailed information on the practical activities of these two Institutes in the area of occupational cancer prevention and control.

Venezuela (ratification: 1983)

The Committee notes with regret that it has not received a report from the Government concerning the application of this Convention since the Government's first report for 1986 and, therefore, the Committee has not received a reply from the Government to any of its previous comments either. The Committee takes note, however, of the observation made by the Central Union of Workers concerning the non-application of this Convention, to which the Government has also not responded. In this regard, the Committee refers the Government to its observation under the Occupational Safety and Health Convention, 1981 (No. 155).

In addition, a request is being addressed directly to the Government on a number of points concerning the application of Articles 1, 2, 3 and 5 of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Argentina, Denmark, Ecuador, Egypt, Guyana, Hungary, Iraq, Italy, Norway, Sweden, Syrian Arab Republic, Uruguay, Venezuela, Yugoslavia.

**Convention No. 140: Paid Educational Leave, 1974**

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Guinea, Guyana, Hungary, Nicaragua, Spain.

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

**Convention No. 141: Rural Workers' Organisations, 1975**India (ratification: 1977)

The Committee notes that the Government's report has not been received and regrets that the report the federal Government had requested from the state Government of Maharashtra on the comments of the Hind Mazdoor Sabha (HMS) (Maharashtra State) concerning the non-application of this Convention by the provincial authorities has not been supplied.

The Committee notes that this workers' organisation pointed out firstly that, on 2 September 1987, the state Government issued a notification stating that the Trade Unions Act and Industrial Disputes Act are not applicable to workers covered by the "Employment Guarantee Scheme". This scheme had been in operation for over 12 years and had seen a union formed there in 1982 for the 5,000 or so workers known as "muster assistants". The Bombay High Court struck down the notification but, according to the HMS, the Government refuses to negotiate with the rural workers' organisation on its demand for security of service and adequate pay scales. In addition, contrary to an earlier agreement on discharges and recruitment, on 19 May 1989 the state Government scrapped arbitrarily the established seniority lists. Secondly, the HMS complained of the conditions of employment of over 300,000 female workers employed on the "Integrated Child Development Scheme" who teach or nurse in the same manner and according to the same rules as government employees, but are classified as "honorary workers" so as to deprive them of adequate pay scales and service conditions. Thirdly, the HMS refers to the poor working conditions of workers in the forest and brick-making industries, equivalent to that of bonded labour. The workers' unions' repeated efforts and representations to the state government departments involved have not been acted on. The HMS sees this inaction as particularly serious as regards the non-implementation of the minimum wage and the non-respect of court decisions in favour of the workers dismissed for anti-union reasons, including reinstatement orders of the Bombay High Court.

Noting with regret that the Government did not reply to these comments, the Committee can only recall in the strongest terms the provisions of the Convention, in particular Articles 4 and 5 which call on ratifying States to facilitate the establishment and growth of rural workers' organisations and to eliminate obstacles to this development. It also recalls that, in accordance with Article 3(2), rural workers' organisations shall be able to exercise the principles

of freedom of association, such as the right to bargain on behalf of their members. It trusts that the federal Government will ensure that the provincial authorities are mindful of the obligations arising under the Convention in their future dealings with the HMS and its rural affiliates. The Committee also asks clarification from the Government on the status of the Employment Guarantee Scheme employees who should be covered by the relevant legislation, as well as on the trade union rights of the so-called "honorary workers" employed on the Integrated Child Development Scheme in Maharashtra State.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Malta, Philippines.

### Convention No. 142: Human Resources Development, 1975

#### Brazil (ratification: 1987)

1. The Committee has taken note of the Government's report, which contains information in response to its previous direct request. It has also taken note of a double communication from the "Gaucha" Association of Labour Inspectors (AGITRA) dated 11 and 26 December 1991, a copy of which has been transmitted to the Government by letter of 10 January 1992 so that it may communicate its own observations on the points raised.

2. AGITRA makes allegations to the effect that none of the substantive provisions of the Convention have been put into effect. According to this organisation, the precariousness of the employment services and the abolition of the coordinating bodies at state level prevent the development of the comprehensive and coordinated programmes of vocational guidance and vocational training required by Article 1 of the Convention. The school system is not coordinated with other training activities and the National Rural Apprenticeship Service (SENAR) has been suppressed, contrary to the provisions of Article 2. The systems of vocational guidance, including continuing employment information, are inadequate and do not supply any of the information specified by Article 3, paragraphs 2 and 3. The reduction of vocational training programmes is contrary to Article 4, and the provisions of Article 5 concerning cooperation with employers' and workers' organisations in the formulation and implementation of policies and programmes are not applied. The trade union organisation also points to the coexistence of high unemployment with unfilled job vacancies, and to the adverse effects of restrictive economic and wage policies on the quality of labour.

3. The Committee notes that these allegations are made in the context of an administrative reform which has led to the abolition of certain bodies responsible for vocational training. It notes that the Government states in its report that the Labour Secretariat and the Federal Labour Council have been abolished and that the projects

prepared by these two bodies have been suspended. With regard to the abolition of SENAR, the Government indicates that the establishment of a new SENAR has been approved by the Chamber of Deputies and is at present under examination in the Senate.

4. In view of the paucity of the information at its disposal, and pending the receipt of the Government's observations on the above-mentioned allegations, the Committee proposes to postpone to its next session the examination of the application of the Convention, which it will examine in conjunction with the application of Convention No. 122 (Employment Policy). It would therefore be grateful if the Government would supply full information on each of the provisions of the Convention in reply to the questions in the report form. The Committee trusts that the Government's report will establish the conformity of the policy pursued with the obligation to extend gradually the systems of vocational guidance and vocational training (Articles 3 and 4) in cooperation with employers' and workers' organisations (Article 5).

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

#### Finland (ratification: 1977)

1. The Committee notes the Government's report, which contains information in reply to its previous observation and transmits the comments made by the Central Organisation of Finnish Trade Unions (SAK) and the Confederation of Salaried Employees (TVK) on the application of the Convention.

2. The Committee notes the developments in the field of training, including the coming into force in 1991 of the Act on Labour Market Training, the purpose of which is to promote equilibrium between the supply and demand for labour by strengthening vocational training for the adult population. In this respect, the TVK considers that, although advances have been made in training, the measures that have been taken have not been sufficient to match the fast pace of technological development. The TVK emphasises the need to devote greater efforts to the promotion of vocational training in times of increasing unemployment. The Committee hopes that the Government will continue to supply detailed information on how vocational training and guidance policies and programmes are developed that are closely related to employment. With regard to basic vocational training at the workplace, which gives concern to workers' organisations, as noted by the Committee in its previous comments, the Government states that it is now subject to the conclusion between the training institution and the employer of a training contract specifying the goals, content and duration of the training programme.

3. Further to its previous comments on the application of Article 5, the Committee notes the assurances given by the Government on the manner in which the cooperation of employers' and workers' organisations is ensured in the formulation and implementation of policies and programmes. The Government states that these organisations are associated with the work of the Committee for Manpower Services, which handles issues related to the vocational



training and guidance of adults, as well as with the National Board of Education which, since April 1991, has been responsible for administering general and vocational education and under which sectoral training committees with a tripartite structure have been set up. The SAK, however, finds that the reform of the administration of education has had the effect of weakening the influence of workers' organisations in the fields of education and training. It states that the number of advisory bodies to the central administration has been cut and that representation of working life in the administration of vocational training institutions has been reduced. With reference to its previous comments and its 1991 General Survey on Human Resources Development (paragraph 105), the Committee notes that the scope and procedures for the association of the social partners with vocational training and guidance policies and programmes have been the subject for many years of criticisms by both employers' and workers' organisations. It trusts that the Government will supply full particulars in its next report on the formal consultative procedures and machinery that have been established and that it will indicate the composition of the various bodies, their competence and the frequency of their meetings.

United Kingdom (ratification: 1977)

1. The Committee has taken note of the Government's detailed report, which contains information in reply to its previous observation and transmits comments by the Trades Union Congress (TUC) dated 28 June 1990 on the application of the Convention.

2. The Committee notes the publication in May 1991 of the White Paper entitled Education and Training for the 21st Century, which sets out the Government's plans to develop the education and training system for 16 to 19-year-olds. The Government aims to extend and improve opportunities for young people to equip themselves with the skills employers need, to ensure that high-quality further education becomes the norm for all those who can benefit from it and thus to increase the proportion of young people reaching higher levels of skills. The Committee would be grateful if the Government would supply in its next report detailed information on the progress of its plans in this respect and the results achieved in the pursuit of its set aims.

3. In reply to the Committee's previous comments, the Government confirms its position that the development of training cannot be for Government alone but must be a partnership which will provide opportunity for businesses and individuals to ensure that training meets requirements in scale and quality. To that end, the Employment Department has set up a structure comprising, at the national level, a National Training Task Force (NTTF) under the Secretary of State for Employment; at the sectoral level, Industry Training Organisations (ITOs) to assess for each branch of industry current and future training requirements; and at the local level, a network of Training and Enterprise Councils (TECs). The Employment Service, for its part, continues to play an important role in vocational guidance and training by offering, in close cooperation



with the TECs, training opportunities for the unemployed. Extensive vocational guidance is also provided both for the unemployed and for people who have jobs by the Employment Service and the Careers Service.

4. The TUC states that it is still concerned at the persistent failure to apply the Convention correctly. It considers that, since it submitted its comments in January 1989 on the abandonment of government responsibilities for training, the Government's record on these matters has not improved. The cut in resources allotted to the Youth Training (YT) programme have undermined the efforts of many, particularly in the voluntary sector, to attain its targets. Furthermore, according to the TUC, the Government has stated that it was not prepared to adopt targets for the achievement of qualifications by workers; and it is lagging behind competing countries in the provision of funds for adult training. The TUC expresses particular concern at the Government's failure to apply the provisions of the Convention relating to the cooperation of employers' and workers' organisations in the formulation and implementation of policies and programmes of vocational guidance and vocational training, in particular in the case of the restructuring of the Youth Training programme. In connection with the abolition of the Training Commission, which was a tripartite body, the TUC notes that the few trade unionists participating in the work of the NTTF and the TECs have been appointed in their individual capacity and are not explicitly treated as representatives of the workers.

5. Referring to its previous comments, the Committee observes that the TUC's new allegations are of such a nature as to warrant some concern about the Government's responsibility and level of commitment to the fundamental obligations of the Convention. That applies in particular to the effect given to the provisions of Article 5 of the Convention, which provides for the cooperation of employers' and workers' organisations in the formulation and implementation of policies and programmes. It notes the general assurances given in that connection by the Government and asks it once again to supply in its next report a detailed description of the practical arrangements for the cooperation with employers' and workers' organisations required by Article 5. More generally, the Committee trusts that the Government will supply additional information, in particular that requested in Part VI of the report form, calculated to demonstrate that the policy implemented conforms to the obligation to extend gradually systems of vocational guidance and vocational training (Articles 3 and 4).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Australia, Egypt, France, Germany, Guinea, Guyana, Hungary, Iraq, Italy, Japan, Kenya, Mexico, Nicaragua, Poland, Russian Federation, United Republic of Tanzania, Venezuela, Yugoslavia.

**Convention No. 143: Migrant Workers (Supplementary Provisions), 1975**Kenya (ratification: 1979)

In the comments it has made for a number of years, the Committee has drawn the Government's attention to the provisions of Article 14(a) of the Convention which allows States that have ratified the Convention to make the free choice of employment subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years. In its reports, the Government states that this question is not covered by specific legislation and each case is handled upon its own merits, i.e. depending on the country's policy of giving preference to a Kenyan over a migrant worker where both are equally qualified (the "Kenyanisation" policy).

In its last report, the Government states that the question of free choice of employment as far as migrant workers are concerned depends upon the discretion of the Government, in accordance with the "Kenyanisation" of jobs policy and as part of the effort to control unemployment, which is particularly prevalent among young university graduates. Migrant workers are not normally allowed to take up jobs which indigenous Kenyans can easily do. The Government indicates, however, its intention to make a careful study of present legislation vis-à-vis the Convention with a view to ensuring harmony between the two.

The Committee takes due note of this information. It recalls that Article 10 provides that a national policy designed to promote and guarantee equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms must be declared and pursued in respect of migrant workers and their families who are lawfully within the territory of a State which has ratified the Convention. Under Article 12(d), statutory provisions or administrative practices that are incompatible with the above-mentioned policy of equality of opportunity and treatment must be modified. The Committee trusts that once the study referred to by the Government is completed, measures will be taken to bring national law and practice into line with the Convention on this point. It asks the Government to provide information on the measures adopted in this connection.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Benin, Burkina Faso, Cyprus, Guinea.

**Convention No. 144: Tripartite Consultation (International Labour Standards), 1976**Bahamas (ratification: 1979)

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

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 report of the Government dated 4 March 1991, in which it refers to its report for the period 1988-89 and states further that the draft Presidential Decree establishing a procedure to be followed to promote the implementation of the international labour standards is in the final stages of adoption. The Committee notes that the Government undertakes to inform the Committee when the Decree is adopted, as well as to communicate a copy of the text thereof.

In this connection, the Committee wishes to reiterate its concern that the Government very shortly will take the steps necessary to ensure that full effect is given to the Convention.

It hopes that the Government will be in a position to provide detailed information in its next report on any consultations held concerning each of the points set out at Article 5, paragraph 1, of the Convention and, more generally, on the application of the other provisions of the Convention, referring to the questions in the report form.

India (ratification: 1978)

The Committee has taken note of the Government's report for the period 1989-90 and of the information on the consultations held with the central organisations of employers and workers on the matters referred to in Article 5, paragraph 1, of the Convention.

The Committee refers, in addition, to its previous observation, in which it noted the comments presented by the Bharatiya Mazdoor Sangh trade union organisation and the Government's reply concerning the absence since 1983 of any meetings of the Tripartite Committee on Conventions set up to hold, among other things, consultations on matters of ratification of Conventions.

The Committee notes that the trade union organisation subsequently withdrew its request for the resumption of the said Committee's activities and that the Government stated in its report, in reply to the Committee of Expert's 1989 observation, that it was taking appropriate measures to that effect.

The Committee trusts that the Government will soon be in a position to inform the ILO of the resumption of meetings of the above-mentioned Tripartite Committee and that it will also continue to supply in future reports full information on the way it ensures effective consultations with respect to matters concerning the activities of the ILO set out in Article 5 of the Convention.

Nicaragua (ratification: 1981)

In its previous observation the Committee took 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, among others, of Convention No. 144. Under paragraph 546 of its report, the Commission of Inquiry considered 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, according to which the Government should establish and apply as soon as possible procedures ensuring effective consultation in accordance with the provisions of the Convention.

The Committee notes that, according to the general statement contained in the report of the Government, tripartite consultations have been held on the matters covered by the Convention, as well as on the elaboration of the Labour Code, the Law on Minimum Wages, the National Technology Institute and the General Law on Cooperatives.

With reference to its previous direct requests and in connection with Article 5, paragraphs 1 and 2, of the Convention, the Committee

requests the Government to transmit supplementary detailed information on the consultations held on each of the matters set out in paragraph 1, as well as on the frequency of such consultations. The Committee further requests the Government to indicate the nature of any reports or recommendations made as a result of the consultations.

Spain (ratification: 1983)

The Committee has taken note of the Government's report and of the information supplied in response to its previous observation. That observation mentioned the comments received from the General Union of Workers (UGT) concerning failure to apply Articles 2, 4 and 5 of the Convention.

The Committee points out that the trade union organisation alleged, in essence, the absence of consultation prior to the choice of procedures; the summary nature of consultations held at unduly short notice and with a frequency left to the Government's sole discretion; and the absence of arrangements made for the financing of the necessary training of participants in the consultation procedures.

The Government supplies detailed information in reply to each of the points previously raised. The procedure of consultation through written communication is not the outcome of a unilateral decision on the Government's part but is a continuation of an already established procedure even before the ratification of the Convention; such communications, used on all questions concerning the ILO, were regarded as "appropriate and sufficient" within the meaning of paragraph 2(3)(d) of Recommendation No. 152 and had not been contested hitherto. The Government describes the modus operandi of the procedure for consultation on the matters referred to in Article 5, paragraph 1, of the Convention and points out with regard to the frequency of consultations, which is the subject of paragraph 2, that the "appropriate intervals" are in practice determined by the cycle of ILO activities. As to training of participants in the procedures, for which provision is made in Article 4, paragraph 2, it appears from the Government's report that the Government does not consider it "necessary", because the persons concerned are heads of industrial organisations who regularly participate in ILO activities and in particular in the work of the Conference.

Lastly the Committee notes that one of the reasons for the choice of written communications was that there has hitherto been no coordinating body at the state level. In that connection it observes that the Government refers in its report to the forthcoming establishment of the Economic and Social Committee, which would be able to examine the question of choosing another mechanism of consultation to apply Convention No. 144 from among those suggested by Recommendation No. 152.

The Committee would be grateful if the Government would continue to supply information on all developments with regard to the way in which it ensures "effective" consultations within the meaning of

Article 2 on each of the matters referred to in Article 5, paragraph 1, of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Ecuador, Gabon, Guyana, Malawi, Sierra Leone, Zimbabwe.

#### **Convention No. 145: Continuity of Employment (Seafarers), 1976**

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

#### **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)

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'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.

Denmark (ratification: 1980)

1. Article 2(f) and (g) of the Convention. Further to its previous request the Committee would be grateful if the Government would include in future reports the information requested by the report form as to the functioning of inspection arrangements and inquiries into any serious marine casualties.

2. The Committee notes the Government's reply to its earlier request, that no special rules have been drawn up for persons employed in ships registered on the Danish International Ships' Register (DIS). The Government states that all persons employed on board Danish ships - irrespective of their nationality or residence - are subject to Danish labour law.

Italy (ratification: 1981)

Article 2(a)(i) of the Convention. The Committee notes that the Government's most recent report does not contain replies to the comments it has been making in direct requests for a number of years, which read as follows:

Under this provision each Member which ratifies the Convention undertakes to have laws or regulations laying down for ships registered in its territory safety standards including hours of work, so as to ensure the safety of life on board ship. The Government indicates its view that hours of work should preferably be fixed by collective agreement, since this is more flexible and in any event legally binding inter partes. The Committee recalls that under Article 2(a)(iii) shipboard conditions of employment in general need only be the subject of laws or regulations in so far as, in the opinion of the Member, they are not covered by, for example, collective agreements. However, to the extent that the regulation of hours of work is a matter of safety of life on board ship it is required under Article 2(a)(i) to be the subject of legislation. To this extent, therefore, the Committee would be grateful if the Government would take the necessary steps to ensure that there are laws or regulations of an appropriate nature on this point, so that this paragraph of the Convention might be fully applied.

Article 2(g). The Committee recalls the Government's previous reply to its earlier comments that the results of technical, administrative and judicial inquiries into accidents are available to anyone, but that no specific measures have been taken or are planned to make public the final reports. The Government in its most recent report states that consultations with employers' and workers' organisations have shown that the current publication system is considered adequate, although no sample report of an inquiry was



received by the Office. The Committee recalls that under the Convention the final report of an official inquiry into any serious marine casualty involving ships registered in the territory, particularly one involving injury or loss of life, should normally be made public (see paragraph 258 of the Committee's 1990 General Survey of the Convention). The Committee hopes the Government will take the necessary steps to comply with this provision of the Convention; and that it will include in future reports the information requested in the report form as to the numbers of inquiries held and measures taken as a result.

Article 2(f). The Committee would be glad if the Government would also include in future reports the information requested in the report form concerning the functioning of inspection arrangements.

#### Liberia (ratification: 1981)

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:

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.

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.

#### Norway (ratification: 1979)

1. Further to its previous comment concerning the manner in which the Convention is applied, the Committee notes with interest the information provided in the Government's report relating to the Norwegian International Ship Register (NIS) and social security arrangements, in particular the Act of 19 January 1990, No. 1

(reinstating section 32(1) of the Seamen's Act No. 18 of 30 May 1975), as well as the Regulations of 19 January 1990, No. 27 (relating to compulsory insurance for foreigners resident abroad on Norwegian vessels). The Committee further notes the Government's reply confirming that, according to Act No. 48 of 12 June 1987 relating to the NIS, certain provisions of the Seamen's Act, in particular those relating to repatriation, may be deviated from in the case of collective agreements with Norwegian or foreign unions. It notes the statement that such collective agreements will give workers new social rights and contain rules concerning the right to free travel home. It also notes that the workers covered in section 1, second paragraph, of the Seamen's Act have these same rights, and that as far as the Government knows there are no workers on board ships registered in Norway who do not have these rights, either under law or under a collective agreement.

2. The Committee would be grateful if the Government would include in future reports the information requested in the report form concerning the functioning of inspection and other verification arrangements (Article 2(f) of the Convention).

United Kingdom (ratification: 1980)

Further to its previous observations, the Committee has noted the detailed report provided by the Government including information on inspection (Article 2(f) of the Convention).

Article 2(a)(i). The Committee notes that, as a result of the report of the commissioned study on hours of work and fatigue on board ship, draft regulations and a code of practice for sea-going ships, dealing with hours of work, have been prepared and sent out to a limited group of organisations representing the industry for preliminary comment and discussion, prior to full public consultation. The Committee hopes the regulation will be issued soon and a copy provided with the next report.

Article 2(a) (Conventions listed in the Appendix to Convention No. 147 but not ratified by the United Kingdom.)

- Convention No. 73, Article 1(3)(a). In its earlier observations, the Committee pointed out that the Merchant Shipping (Medical Examination) Regulations, 1983, only apply to ships of over 1,600 gross registered tons (GRT), whereas Convention No. 73 allows the exclusion of vessels of less than only 200 GRT. The Committee has taken full note of the Government's views that important IMO Conventions all apply different conditions to vessels above or below this critical size and, as a result, the majority of vessels engaged in coasting and near coastal voyages are operated to a different regime from larger vessels. The Government does not consider it appropriate to apply all the requirements of Convention No. 147 to vessels below this break point. It further states its belief that it is the right of any contracting State to determine its own definition of "small vessels" when the Convention itself does not do so and that, even if some Appendix Conventions have specific lower limits, ratification of Convention No. 147 does not require a State automatically to

apply the restrictive requirements. It also states that the Government does not hold information on the number of seafarers employed on vessels between 200 and 1,600 GRT.

The Committee would refer to its observation of 1990 which in its pertinent parts reads as follows:

The Committee would refer to the explanations in paragraphs 43-45 of its 1990 General Survey of Convention No. 147, in which it has indicated that the exclusion of vessels of up to 1,600 GRT from provisions for the medical examination of seafarers is not consistent with the notion of substantial equivalence in Article 2(a) of the Convention. The Committee has earlier indicated that in determining, under Article 1(4)(c) of Convention No. 147, which are the "small vessels" which may be excluded from the requirements of that Convention, regard must be had to the provisions as to scope in the respective Appendix Conventions, so that the discretion to exclude "small vessels" is not an unlimited one.

The Committee has taken full note of the Government's earlier indications that small ships were defined for the purposes of Convention No. 147 as those below 1,600 GRT, and that shipowners' and seafarers' organisations were consulted in this respect. However, it would be grateful if the Government would consider entering into further consultations with those organisations, in order to decide in the light of the Committee's comments whether the scope of the Regulations in question might not be extended in order to bring them more into line with the provisions of Convention No. 73.

In this respect, the Committee stresses that, in exercising the discretion to exclude small vessels, in the first place substantial equivalence to the definition in Convention No. 73 should be ensured; and in the second place there is a requirement as to consultations. It would also draw the Government's attention to paragraph 37 of the General Survey, regarding the question of "sea-going" ships.

- Convention No. 73, Article 5(1). The Committee recalls its previous observations with regard to the discrepancy between the requirements as to the frequency of medical examinations for seafarers in the 1983 Regulations (every five years for those under 40) and those in the Convention (every two years for all seafarers covered by the Convention): this was found to be too wide for the Regulations to be considered substantially equivalent for the purposes of Convention No. 147. The Government states that one of the purposes of Convention No. 147 was to allow States which could not or did not wish to meet the detailed provisions of the associated Conventions to agree to comply with the requirements of this Convention (No. 147). It therefore avers that to require moves towards compliance with the earlier Conventions as essential is at variance with the purpose behind the adoption of Convention No. 147. The Government states that there has been no pressure from employers or seafarers to reduce the period of validity of medical certificates, and there have been no cases to demonstrate that the adoption of the five-year period for younger seafarers is medically unsound. It therefore concludes that its custom and practice, which might not

be in strict compliance with Convention No. 73, as it has not ratified it, continues to guarantee strict adherence to the provisions of Convention No. 147.

The Committee has taken due note of the Government's views. It would once again express its agreement that Convention No. 147 does not require literal compliance with every provision of Convention No. 73. It nevertheless considers that closer conformity (substantial equivalence) with Article 5(1) of the Convention is essential under Article 2(a)(i) of Convention No. 147 (see paragraph 115 of the 1990 General Survey).

The Committee once again suggests that the Government might consider examining this question in a study to be commissioned by it. It will be grateful if the next report includes information on any measures taken or proposed on this matter.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Egypt, Finland, Germany, Greece, Iraq, Japan, Liberia, Morocco, Netherlands, Portugal, Spain, Sweden, United States.

### **Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977**

#### Costa Rica (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:

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.

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: Brazil, Denmark, Malta, Russian Federation, San Marino, Uruguay, Yugoslavia.

### Convention No. 149: Nursing Personnel, 1977

#### Uruguay (ratification: 1980)

The Committee notes a communication from the Nurses' Association of Uruguay, dated 18 December 1991, a copy of which has been transmitted to the Government by a letter dated 21 January 1992. The Nurses' Association alleges that effect is not given to the provisions of the Convention concerning consultation with the professional organisations of the Government's measures in respect of education and nursing training. Consequently, it 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.

In addition, the Committee has referred to other questions related to Article 2, paragraph 2(a) and (b), and Article 5, paragraph 2, in a direct request.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Congo, Ghana, Greece, Guinea, Guyana, Jamaica, Malawi, Uruguay.

### **Convention No. 150: Labour Administration, 1978**

Requests regarding certain points are being addressed directly to the following States: Burkina Faso, Congo, Costa Rica, Ghana, Guyana, Israel, Italy, Tunisia, Zambia.

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

### **Convention No. 151: Labour Relations (Public Service), 1978**

#### Finland (ratification: 1980)

The Committee notes the Government's report and the comments of the Confederation of Salaried Employees (TVK) to the effect that developments in the public sector have not, in general, progressed satisfactorily for public servants. The TVK adds that its views have not always been taken into consideration. The Committee also notes the comments of the Central Organisation of Finnish Trade Unions (SAK) drawing attention to the shortcomings in bargaining procedures in government departments and agencies.

The Committee observes that the above comments are very general and provide no evidence that the Convention is not applied.

#### Peru (ratification: 1980)

See the comments on the right to organise of public servants made under Convention No. 87.

#### Poland (ratification: 1982)

The Committee takes note of the Government's report and the new legislation on trade unions and the settlement of collective labour disputes, which came into force in 1991.

It notes with satisfaction that the new Trade Union Act ensures better application of the Convention to persons employed in the state administration by removing the obligation on public employees to belong to organisations of public employees and by restricting the scope of the provisions excluding certain public employees with highly confidential duties or managerial functions from the right to organise.

Portugal (ratification: 1981)

In its previous observation, with regard to the problems that arose in collective bargaining in the public service in 1989, the Committee, while considering that the procedure to resolve disputes in the public service (namely further negotiations) were in conformity with the Convention, concluded that, in view of the above problems, the Government should have opened further negotiations in order to reach an agreement.

The Committee notes that, in its report, the Government states that it would have been pointless to reopen negotiations as the trade unions' claims were too demanding for the known budgetary limitations and that, in any event, the bargaining procedure was over because the new wage scales were already in force. The Committee trusts that in future the procedure for dispute settlement in the public service will be applied in such a way as to gain the confidence of the parties concerned.

Spain (ratification: 1984)

The Committee notes the Government's report and the comments made by the Trade Union Confederation of Workers' Committees (CC.OO.) stating that the civilian employees of the armed forces do not enjoy basic trade union rights, in particular the right to strike and to conclude collective agreements.

The Committee also notes the contents of Act No. 7/1990, of 19 July 1990, on collective bargaining and participation in the establishment of the working conditions of public employees, which amends Act No. 9/1987, Chapter III, by establishing representative bodies, entitled to determine the working conditions and participation of employees serving in the public administration, all of which reinforces the application of the Convention.

The Committee takes due note of the Government's statement that civilian employees of the armed forces are covered by Act No. 7/1990 and considers that, in view of the available information, this point does not call for further comment.

United Kingdom (ratification: 1980)

The Committee takes note of the Government's report and of the Trades Union Congress (TUC) communication of January 1992.

1. The Committee observes that, according to the TUC, the independent and impartial machinery which has existed since 1925 for the settlement of disputes in the civil service will soon be abolished, since the Government has announced its unilateral decision to terminate the Civil Service Arbitration Agreement as of 31 March 1992, after which there will be no form of arbitration available for some 530,000 non-industrial civil servants.

Since the Government has not had time to reply to these comments, the Committee will take account of the issues raised by the TUC, in



the light of the Government's observations, at its next examination of the Convention.

2. Referring to its previous observation concerning the working conditions of primary and secondary school teachers, the Committee notes from the Government's report that the School Teachers' Pay Review Body, established under the School Teachers' Pay and Conditions Act, 1991, will make recommendations on the statutory pay and conditions of school teachers for the financial year 1992-93. The Government adds it will provide a full report on the provisions of this Act in its next report on Convention No. 98.

The Committee will examine this matter, taking into consideration the observations received from the trade unions concerned, when it examines the application of Convention No. 98 at its next session.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Cyprus, Guinea, Guyana, Netherlands, San Marino.

Information supplied by Sweden 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: Denmark, France.

#### **Convention No. 153: Hours of Work and Rest Periods (Road Transport), 1979**

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

#### **Convention No. 154: Collective Bargaining, 1981**

Requests regarding certain points are being addressed directly to the following States: Belgium, Gabon, Niger.

#### **Convention No. 155: Occupational Safety and Health, 1981**

Spain (ratification: 1985)

I. The Committee has noted the comments made by the Staff Association of Local Police of the Trade Union Confederation of Workers' Commissions transmitted in a communication of 1 March 1991.

It further notes the Government's reply to these comments dated 25 October 1991. The Committee is dealing with these comments and a number of other points in a request addressed directly to the Government.

II. The Committee notes with regret that the Government has not replied to its previous observation with respect to information provided by the Trade Union Confederation of Workers' Commissions (CC.00.) in 1987 concerning the absence of a national policy on occupational safety and health as required by Article 4 of the Convention. The Committee must, therefore, request the Government once again to provide information on the following matters:

In its previous observation, the Committee noted the Government's indication in its first report that the Ministry of Labour was preparing a legal text on safety and health at work to deal with, in particular, the coordination between the various authorities and bodies having a responsibility in the field of safety and health, and the rights and responsibilities of employers and workers. In its report for the period ending 30 June 1989, the Government indicated that no text had been promulgated because the Government was waiting for the final approval of EEC Directive No. 391 of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. The Committee recalled that Article 4 of the Convention provided that a coherent national policy on occupational safety, occupational health and the working environment be formulated, implemented and reviewed in consultation with the most representative organisations of employers and workers.

The Committee also noted the CC.00's indication that, in view of the lack of a coherent national policy concerning occupational safety and health, Article 15 - which concerns the necessary coordination between various authorities and bodies called upon to give effect to this policy - cannot be properly applied. The Committee recalled that the arrangements made to ensure this coordination should be taken in consultation with the most representative organisations of employers and workers. The Government had indicated the coordination provided for in the organisational structure which already exists in the field of occupational safety and health. The Committee expressed the hope that a coherent national policy on occupational safety, occupational health and the working environment would be formulated in the near future and that the organisational structure put into place by this policy would provide for the necessary coordination between the authorities and bodies concerned.

#### Venezuela (ratification: 1984)

The Committee notes the comments made by the Central Workers' Union of Venezuela. It regrets that no communication has been received from the Government concerning the information provided by the CUTV.

1. Article 4, paragraph 1 of the Convention. In its previous comment, the Committee noted that the National Council on Prevention and Health and Safety at Work, provided for in section 8 of the Basic Act 1986 on prevention, working conditions and the working

environment, had not yet been established. According to the information provided by the CUTV, there has still been no progress made in this regard. The Committee had observed that the main objective of this Convention was to promote a coherent, national policy to better respond to the difficulties encountered in the workplace in respect of safety and health. Under section 8 of the Basic Act, the basic purposes of the National Council on Prevention and Health and Safety at Work are to draw up a national policy in the fields of working conditions and the working environment in regard to prevention and to workers' health, safety and welfare and to see to the observance of all the standards contained in the Act and the regulations issued under it. Section 10 of the Act sets forth the broad powers of the National Council and absent the effective exercise of these powers, many of the provisions of the Convention would not be applied in practice. The Committee trusts that the Government will take the necessary steps to create the National Council provided for in the Basic Act so that the national occupational safety and health policy may be elaborated and in consultation with the most representative workers' and employers' organisations.

2. In its previous comments, the Committee requested the Government to indicate the manner in which, through the National Council, Article 5(b) and (d), Article 7 and Article 11 of the Convention were implemented. The Committee hopes that the National Council will be established in the near future and that, when formulating the national occupational safety and health policy, it shall take account of the relationships between the material elements of work and the persons who carry out or supervise the work and the adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the workers (Article 5(b)) and shall provide for: communication and cooperation at all levels (Article 5(d)); review of the situation regarding occupational safety and health at appropriate intervals (Article 7); and shall ensure that the functions elaborated in Article 11 of the Convention are carried out.

3. Article 8. In its previous comment, the Committee noted that no new regulations had been issued to give effect to the national occupational safety and health policy called for under Article 4 of the Convention. It emphasised that the creation of the National Council on Prevention and Health and Safety at Work and the development of a national occupational safety and health policy and measures for its implementation, as called for by section 8 of the Basic Act, would be necessary to fulfil the purpose in the Act to guarantee conditions of safety, health and welfare to workers in a working environment which is favourable to the exercise of their physical and mental facilities. The Government was requested to indicate the progress made towards creating the National Council and elaborating the regulations necessary for the implementation of the national occupational safety and health policy. As apparently no progress has been made, the Committee urges the Government to take the necessary measures to establish the National Council and thus ensure the elaboration of a national occupational safety and health policy and any measures necessary for its elaboration.

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

[The Government is requested 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: Spain, Uruguay, Venezuela.

### **Convention No. 156: Workers with Family Responsibilities, 1981**

Requests regarding certain points are being addressed directly to the following States: Greece, Netherlands, Niger, Peru, San Marino, Yugoslavia.

### **Convention No. 157: Maintenance of Social Security Rights, 1982**

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

### **Convention No. 158: Termination of Employment, 1982**

Spain (ratification: 1985)

1. The Committee takes note of the Government's observations, transmitted in April 1990, the Government's report for the period ending June 1991 and the observations of the Trade Union Confederation of Workers' Commissions (CC.OO) and of the General Union of Workers (UGT), annexed to the Government's report.

2. Article 2, paragraphs 2 and 3, of the Convention. The Committee takes note of Act No. 2/1991 of 7 January 1991 respecting the right of workers' representatives to information on contracts of employment (Documento de Derecho Social, 1991-Espl). This is an Act adopted "... as one more step in the policy of improving and increasing employment, the common will to avoid fraud and abuses in labour contracting". The Committee also notes the many judicial decisions transmitted by the Government in connection with the protection of workers who hold temporary contracts of employment. Provision has been made in the draft State General Budgets for 1992 for subsidies for employers who convert a temporary contract of employment into a contract of employment of indefinite duration.

The Workers' Commissions drew attention to the vast increase in the number of temporary contracts of employment in Spain. In practice, they say, it is becoming a habit to use fixed-term contracts in order to evade the protection enjoyed by the holders of contracts of indefinite duration. UGT too refers to the high proportion of

temporary workers and draws attention to the problem of successive temporary contracts; it would be desirable, as UGT sees it, to "limit recourse to contracts for a specified period of time to cases in which, owing either to the nature of the work to be effected or to the circumstances under which it is to be effected or to the interests of the worker, the employment relationship cannot be of indeterminate duration" (Paragraph 3(2)(a) of Recommendation No. 166 concerning Termination of Employment, 1982).

The Committee hopes that the action taken to encourage new forms of institutional participation by the social partners in the follow-up of employment contracts will make it possible to give better guarantees against the use of fixed-term contracts whose purpose is to evade the protection prescribed by the Convention. The Committee would be grateful if detailed information on the impact produced in this matter by Act No. 2/1991 could be included in the next report. Please continue giving examples of the main judicial decisions and statistics on the intervention of appeal bodies and on the number and categories of workers affected by the various procedures of fixed-term contracting.

3. Article 7. In its 1990 observation, the Committee referred to section 55 of the Workers' Charter, which allows dismissal (for disciplinary reasons) if the alleged breach of discipline is stated in the employer's written notification. The Committee asked the Government to state when the employment is considered to be terminated, in the national legislation and in practice, and to specify the procedure available to a worker to defend himself against the allegations prior to the termination, as required by this Article of the Convention.

The Workers' Commissions point out that the worker receives notice of dismissal without first having been given any opportunity to defend himself against the charges brought against him. If the labour tribunal declares his dismissal valid, it takes effect on receipt by the worker of the notice of dismissal, and not on delivery of the judicial decision. UGT, for its part, points out that the safeguards provided are available only in case the matter is referred to the competent court to determine whether the employer's decision is legal or not.

The Government states in its report that the employment relationship cannot be considered terminated merely when a record is made that the worker has received a notice of dismissal. The notice of dismissal will be fully valid and produce its full effects as such only if the worker has allowed the period of 20 days following the date of the notice which the law allows for an appeal to elapse (section 103 of the Labour Procedure Act) (Law Legislative Decree No. 521/1990 of 27 April 1990, approving the articulated text of the Labour Procedure Act, Boletín Oficial del Estado of 2 May 1990, No. 105, pp. 11800-11822). In the case of dismissal for disciplinary reasons (sections 103 to 113 of the Labour Procedure Act), the court shall declare the employment relationship extinguished only if he holds the dismissal to be valid (section 109). If the court declares the dismissal invalid, it may order reinstatement of the worker or the payment of compensation (section 110). The dismissal is deemed to be

proper when the fault alleged in the employer's written notice of dismissal is held proved by the court (section 108, 1).

The Committee refers to its previous comments and points out that the worker must obviously be given an opportunity to defend himself before the employment is terminated for reasons related to the worker's conduct or performance. Section 3 of the above-mentioned Act No. 2/1991 provides that "the worker may request the attendance of an official representative of the workers at the time of signing the receipt for the release" presented to him by the employer when serving notice of the termination of a contract of employment or, where applicable, notice of termination at a future date. The receipt for the release must be signed by the worker "in the presence of an official representative of the workers". The Committee would be grateful if the Government would indicate in its next report whether section 3 of Act No. 2/1991 is applicable also in case of termination of a contract of employment for reasons related to the worker's conduct or performance and how it is applied in a case where a worker has no opportunity to have recourse to an official representative of the workers when the employment relationship is terminated or when the worker does not file an appeal before the competent court and also when he files such an appeal.

Article 11. Please give examples of judicial decisions in cases of "serious and culpable breaches of contract by the worker" (section 54 of the Workers' Statute), taking into account that this Article of the Convention requires a reasonable period of notice or compensation in lieu thereof unless the worker is guilty of "serious misconduct".

\* \* \*

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

### **Convention No. 159: Vocational Rehabilitation and Employment (Disabled Persons), 1983**

Requests regarding certain points are being addressed directly to the following States: China, Cyprus, Ecuador, Egypt, El Salvador, Greece, Malta, Netherlands, Peru, Russian Federation, Uruguay.

### **Convention No. 160: Labour Statistics, 1985**

United Kingdom (ratification: 1987)

The Committee notes the information supplied by the Government in its report as well as the observations of the Trades Union Congress (TUC) communicated in a letter dated 13 January 1992.

Article 3 of the Convention. Further to its previous request, the Committee notes the Government's explanations of the manner in which the employers' and workers' organisations are or would be



consulted in designing or revising the concepts, definitions and methodology with regard to the statistics referred to in Articles 14 and 15 of the Convention. It however notes the Government's indication that the interdepartmental committee which considers and approves changes in concepts, definitions and methodology for the Family Expenditure Survey (FES) statistics (covered by Article 13) does not contain representatives of these organisations, although they are represented on the Retail Prices Index Advisory Committee which uses the FES data. Please indicate whether the latter committee as a user is consulted in designing or revising the concepts, definitions and methodology for FES statistics.

Besides, the Committee notes with interest that following the conference of the independent Statistics Users' Council, a Labour Market Statistics Users' Group (LMSUG) was set up, and that this provides a further channel for consultation with all users of statistics, including the employers' and workers' organisations. The first issue of this Users' Group's newsletter was communicated with the observation of the TUC, which welcomes this improvement in the arrangements for consultation about statistics. The Committee requests the Government to provide in its future reports information on the outcome of the activities of the LMSUG when it concerns the application of Article 3 of the Convention.

The Committee is also addressing a direct request to the Government concerning certain points.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Denmark, El Salvador, Mexico, San Marino, United Kingdom.

#### **Convention No. 161: Occupational Health Services, 1985**

Requests regarding certain points are being addressed directly to the following States: Czechoslovakia, Mexico, San Marino, Sweden, Uruguay.

#### **Convention No. 162: Asbestos, 1986**

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



### Appendix I. Receipt of Detailed Reports on Ratified Conventions as at 25 March 1992

(Article 22 of the Constitution)

<i>State Member</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
GRAND TOTAL	1411		599		2010
AFGHANISTAN	8	13 95 100 105 139 140 141 142	0		8
ALBANIA	0		14	6 10 11 16 29 52 58 59 77 78 87 98 100 112	14
ALGERIA	10	13 19 32 62 69 73 74 81 94 96	6	29 63 100 105 138 142	16
ANGOLA	9	19 27 29 69 73 74 81 100 105	0		9
ANTIGUA AND BARBUDA	0		9	17 19 29 81 87 98 105 111 138	9
ARGENTINA	20	5 10 13 16 19 27 29 32 33 34 53 73 81 100 105 129 139 142 151 159	0		20
AUSTRALIA	16	8 10 11 16 19 27 29 42 81 87 100 105 123 142 144 160	0		16
AUSTRIA	17	5 10 13 19 27 29 33 81 87 100 102 103 105 135 141 142 160	0		17
BAHAMAS	0		10	5 10 19 29 42 81 94 105 117 144	10
BAHRAIN	3	14 29 81	0		3
BANGLADESH	10	16 19 27 29 32 59 81 96 105 118	0		10
BARBADOS	0		11	5 10 19 29 63 74 81 100 105 118 135	11
BELARUS, REPUBLIC OF	7	16 27 29 32 100 138 142	0		7

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
BELGIUM	19	13 16 19 27 29 32 53 62 69 73 74 81 96 100 105 113 125 138 147	2	82 107	21
BELIZE	7	5 10 16 19 29 81 105	0		7
BENIN	7	5 13 29 33 85 100 105	0		7
BOLIVIA	17	5 19 81 95 96 100 111 117 118 121 122 123 124 128 129 130 136	0		17
BOTSWANA	1	19	0		1
BRAZIL	17	5 12 16 19 29 53 81 94 97 100 105 106 111 113 118 125 142	0		17
BULGARIA	15	13 16 19 27 29 32 53 62 69 73 81 100 111 113 138	0		15
BURKINA FASO	10	5 13 19 29 33 81 100 129 135 159	0		10
BURUNDI	7	19 27 29 59 62 81 105	0		7
CAMBODIA	0		5	4 6 13 29 122	5
CAMEROON	12	5 10 13 16 19 29 33 81 100 105 123 135	1	162	13
CANADA	9	16 27 32 63 69 73 74 100 105	0		9
CAPE VERDE	0		8	19 29 81 98 100 105 111 118	8
CENTRAL AFRICAN RE-PUBLIC	0		13	5 10 13 19 29 33 41 81 95 100 105 111 117	13
CHAD	7	5 13 29 33 81 100 105	0		7
CHILE	11	3 5 10 13 16 19 27 29 32 63 100	0		11
CHINA	5	16 19 27 32 59	0		5

## 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>	
COLOMBIA	28	5 9 10 11 12 13 14 16 17 19 22 23 25 29 52 62 81 87 88 95 98 100 101 105 106 129 136 159	1	107	29
COMOROS	9	5 10 13 19 29 33 81 100 105	0		9
CONGO	0		6	5 13 29 33 149 152	6
COSTA RICA	0		14	29 81 96 100 105 113 122 129 134 135 138 147 148 150	14
COTE D'IVOIRE	12	5 13 29 33 52 81 96 100 105 129 135 136	1	19	13
CUBA	23	1 13 16 19 27 29 53 63 81 87 95 96 100 105 113 122 135 136 138 141 142 151 152	0		23
CYPRUS	14	16 19 29 81 100 105 114 123 141 142 151 152 159 160	2	154 155	16
CZECH AND SLOVAK, FED. REP.	10	5 10 13 19 27 29 100 123 136 160	1	142	11
DENMARK	23	5 16 19 27 29 53 62 73 81 100 105 118 119 129 134 135 139 141 142 147 151 152 160	0		23
DJIBOUTI	40	5 10 11 13 14 16 18 19 22 23 24 29 33 44 52 53 55 56 63 69 71 73 77 78 81 87 88 94 95 96 98 100 101 105 106 115 122 123 124 125	0		40
DOMINICA	0		14	11 14 16 19 22 29 81 87 94 97 98 100 105 138	14
DOMINICAN REPUBLIC	7	5 10 19 29 81 100 105	0		7

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
ECUADOR	13	29 81 100 103 105 113 118 123 136 139 141 142 152	1	153	14
EGYPT	18	19 29 53 62 63 69 73 74 81 96 100 105 134 135 139 142 147 152	0		18
EL SALVADOR	0		4	105 107 159 160	4
EQUATORIAL GUINEA	2	100 138	0		2
ETHIOPIA	1	87	0		1
FIJI	5	19 29 59 85 105	0		5
FINLAND	30	13 16 19 27 29 47 53 62 73 81 88 96 98 100 105 118 129 130 134 135 136 138 139 141 142 147 151 152 160 161	0		30
FRANCE	30	14 16 19 27 29 35 36 37 38 42 73 77 78 87 88 100 105 106 113 118 124 129 135 140 141 142 148 156 158 159	18	13 44 53 62 63 69 74 81 82 94 95 96 125 134 136 137 147 152	48
GABON	15	5 10 13 19 29 33 52 81 87 96 100 101 105 123 135	0		15
GERMANY	28	16 19 22 27 29 53 62 63 73 81 96 100 105 113 118 125 129 132 134 135 136 138 139 141 142 147 152 159	0		28
GHANA	13	16 19 29 59 69 74 81 94 96 100 105 149 151	1	148	14
GREECE	21	13 16 19 27 62 69 73 81 98 100 102 105 122 134 135 136 141 142 147 150 159	2	29 138	23

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
GRENADA	1	29	7	5 10 16 19 81 105 108	8
GUATEMALA	0		24	1 10 13 16 19 29 50 59 62 63 64 81 96 100 103 105 113 117 118 124 141 144 161 162	24
GUINEA	19	5 10 16 29 33 62 81 100 105 111 113 118 134 135 136 139 149 151 152	2	13 142	21
GUINEA-BISSAU	0		16	14 18 19 27 29 69 73 74 81 88 98 100 105 106 107 111	16
GUYANA	21	2 7 11 12 29 42 45 87 94 95 97 98 105 108 111 115 140 141 144 149 150	11	5 10 19 81 100 129 135 136 139 142 151	32
HAITI	0		8	5 19 29 42 81 100 105 111	8
HONDURAS	10	27 29 32 62 81 87 100 105 111 138	0		10
HUNGARY	11	10 13 16 19 29 100 123 135 136 139 142	2	27 163	13
ICELAND	4	29 100 102 105	1	111	5
INDIA	7	11 16 19 27 32 111 123	6	5 29 81 100 118 141	13
INDONESIA	4	19 27 29 100	0		4
IRAN, ISLAMIC REP. OF	3	19 29 105	3	95 100 122	6
IRAQ	25	13 16 17 19 27 29 81 100 105 108 115 118 119 120 122 132 135 136 138 139 142 146 147 152 153	0		25
IRELAND	5	19 96 100 138 142	14	16 23 27 29 32 53 62 63 69 73 74 81 105 118	19
ISRAEL	13	19 29 53 81 96 100 105 118 134 136 138 141 142	0		13

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
ITALY	32	13 16 19 23 27 29 32 44 53 69 73 74 81 95 96 100 105 117 118 129 134 135 136 138 139 141 142 144 147 148 151 160	1	150	33
JAMAICA	7	16 29 81 98 100 105 149	2	19 87	9
JAPAN	15	5 10 16 19 27 29 69 73 81 96 100 134 139 142 147	0		15
JORDAN	0		10	29 81 100 105 106 117 118 123 135 142	10
KENYA	15	16 17 19 27 29 32 63 81 105 118 129 135 138 141 142	0		15
KUWAIT	10	29 52 81 87 89 105 106 111 117 136	0		10
LAO PEOPLE'S DEM. REP.	0		2	13 29	2
LEBANON	0		27	1 14 15 17 19 29 30 45 52 59 77 78 81 88 89 90 95 98 100 105 106 111 115 120 122 127 131	27
LESOTHO	0		3	5 19 29	3
LIBERIA	0		16	22 23 29 53 55 58 87 92 98 105 108 111 112 113 114 147	16
LIBYAN ARAB JAMAHIRIYA	20	14 29 52 53 81 88 89 95 96 98 100 102 105 111 118 121 122 128 130 138	0		20
LUXEMBOURG	12	13 16 19 27 29 81 96 100 102 105 135 138	0		12

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
MADAGASCAR	0		20	5 6 11 13 14 19 29 33 81 95 100 111 117 118 120 123 124 127 129 132	20
MALAWI	10	11 19 81 97 98 100 107 129 158 159	1	149	11
MALAYSIA	3	29 81 123	0		3
MALAYSIA (PENINSULAR)	0		1	19	1
MALAYSIA (SABAH)	1	16	0		1
MALAYSIA (SARAWAK)	2	16 19	0		2
MALI	7	5 13 19 29 33 81 100	2	105 111	9
MALTA	15	1 13 16 19 29 32 62 81 96 100 105 129 135 138 141	0		15
MAURITANIA	19	5 11 13 14 19 22 23 29 33 53 62 81 87 94 95 111 112 118 122	11	26 52 58 84 89 90 91 96 101 102 114	30
MAURITIUS	8	16 19 29 32 63 74 81 105	0		8
MEXICO	18	13 16 19 27 29 34 53 100 105 118 123 134 135 141 142 152 160 161	0		18
MONGOLIA	4	87 98 111 122	3	59 100 123	7
MOROCCO	0		19	2 4 11 12 13 19 26 27 29 52 81 98 99 100 105 122 129 136 147	19
MOZAMBIQUE	2	81 105	1	100	3
MYANMAR	0		7	16 17 19 27 29 63 87	7
NEPAL	1	100	0		1
NETHERLANDS	24	13 16 19 27 29 32 62 69 73 74 81 96 100 105 113 118 129 135 138 141 142 145 147 151	0		24



REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
NEW ZEALAND	17	10 14 16 29 32 42 44 52 53 59 63 69 74 81 100 105 134	1	82	18
NICARAGUA	9	27 29 63 87 98 136 138 139 144	8	13 16 19 100 105 135 141 142	17
NIGER	17	11 13 14 29 81 87 95 98 100 105 111 117 135 138 154 156 158	0		17
NIGERIA	7	16 19 29 32 59 81 87	4	100 105 123 134	11
NORWAY	27	13 16 19 22 27 29 53 69 73 81 96 100 105 113 118 129 134 135 138 139 141 142 147 149 151 152 160	0		27
PAKISTAN	10	11 14 22 29 87 98 105 106 107 111	8	16 19 27 32 59 81 96 118	18
PANAMA	22	10 13 16 19 27 29 32 53 56 63 69 73 74 81 87 96 98 100 105 113 123 125	0		22
PAPUA NEW GUINEA	0		13	8 10 11 19 22 27 29 42 85 98 99 105 122	13
PARAGUAY	9	29 59 60 81 87 98 100 105 123	0		9
PERU	25	10 14 19 29 52 53 55 59 62 69 73 77 78 81 98 100 101 105 106 111 113 114 139 151 152	3	27 44 159	28
PHILIPPINES	5	17 59 100 105 141	2	53 77	7
POLAND	19	13 16 19 27 29 62 69 73 74 96 100 105 113 123 134 135 138 142 151	0		19
PORTUGAL	16	19 27 29 63 69 73 74 81 96 100 105 129 135 142 147 151	0		16

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
QATAR	0		1	81	1
ROMANIA	12	13 16 27 29 81 100 111 129 134 135 136 138	0		12
RUSSIAN FEDERATION	10	16 27 29 32 69 73 100 113 134 138	1	142	11
RWANDA	11	12 19 62 81 94 100 105 118 123 135 138	0		11
SAINT LUCIA	9	5 19 87 94 95 97 98 100 111	7	8 11 14 16 29 101 105	16
SAN MARINO	1	100	4	142 151 159 160	5
SAO TOME AND PRINCIPE	0		4	17 19 81 100	4
SAUDI ARABIA	4	29 100 105 123	1	81	5
SENEGAL	0		12	5 10 13 19 29 33 81 96 100 105 125 135	12
SEYCHELLES	0		9	5 8 10 11 16 29 87 99 105	9
SIERRA LEONE	0		26	8 16 17 19 22 26 29 32 45 58 59 81 87 88 94 95 98 99 100 101 105 111 119 125 126 144	26
SINGAPORE	11	5 8 11 16 19 22 29 32 81 94 98	0		11
SOLOMON ISLANDS	5	8 14 16 81 108	9	11 12 19 29 42 45 84 94 95	14
SOMALIA	0		7	16 19 23 29 85 105 111	7
SPAIN	35	13 16 19 27 29 53 62 69 73 74 77 78 81 96 100 105 113 123 129 134 135 136 138 140 141 142 144 147 150 151 152 157 158 160 163	0		35
SRI LANKA	2	5 96	5	16 29 63 81 135	7
SUDAN	3	19 81 100	3	29 98 105	6
SURINAME	11	13 19 27 29 62 81 96 105 118 135 151	0		11

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
SWAZILAND	8	19 29 59 81 96 100 105 123	0		8
SWEDEN	23	13 16 19 27 29 73 81 96 100 105 118 129 134 135 139 141 142 147 151 152 157 160 161	0		23
SWITZERLAND	17	5 16 19 27 29 62 81 100 105 123 136 139 141 142 151 160 163	0		17
SYRIAN ARAB REPUBLIC	10	19 29 53 94 96 100 105 107 111 118	8	63 81 123 125 129 135 136 139	18
TANZANIA (TANGANYIKA)	1	81	1	32	2
TANZANIA (UNITED REPUBLIC OF)	8	29 59 63 81 105 135 142 152	5	12 16 19 85 134	13
THAILAND	1	29	5	14 19 105 122 123	6
TOGO	5	13 29 85 100 138	0		5
TRINIDAD AND TOBAGO	5	16 19 85 105 125	2	29 111	7
TUNISIA	16	13 16 19 29 55 59 62 73 81 100 105 113 118 123 142 159	0		16
TURKEY	5	81 96 100 105 118	0		5
UGANDA	7	5 19 29 81 105 122 123	0		7
UKRAINE	10	16 27 29 32 69 73 100 113 138 142	0		10
UNITED ARAB EMIRATES	2	29 81	0		2
UNITED KINGDOM	18	5 10 16 19 29 32 69 74 81 87 100 105 135 141 142 147 151 160	0		18
UNITED STATES	3	53 74 147	0		3
URUGUAY	12	13 16 27 32 62 63 81 129 134 136 138 153	15	19 22 73 96 100 105 111 113 118 139 141 150 151 154 156	27

## 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	1	138	18	3 13 19 27 29 81 88 100 105 117 118 122 139 141 142 143 144 153	19
YEMEN REPUBLIC	11	14 16 19 29 59 81 87 98 105 132 135	7	94 95 100 111 122 156 158	18
YUGOSLAVIA	1	140	36	8 11 13 14 16 19 22 23 27 29 32 53 69 73 74 81 87 97 98 100 111 113 114 122 129 135 136 138 139 142 143 148 155 156 159 162	37
ZAIRE	0		9	19 27 29 62 81 100 102 118 158	9
ZAMBIA	12	19 29 100 105 123 135 136 138 141 151 154 159	1	150	13
ZIMBABWE	4	14 19 100 144	0		4
<b>Other States</b>					
NAURU	0		5	19 27 29 42 105	5
SAMOA	0		2	14 29	2
SOUTH AFRICA	2	19 63	0		2

## Appendix II. Statistical Table of Reports Received on Ratified Conventions as at 25 March 1992

(Article 22 of the Constitution)

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1931-1932	447	-	-	406	90.8	423	94.6
1932-1933	522	-	-	435	83.3	453	86.7
1933-1934	601	-	-	508	84.5	544	90.5
1934-1935	630	-	-	584	92.7	620	98.4
1935-1936	662	-	-	577	87.2	604	91.2
1936-1937	702	-	-	580	82.6	634	90.3
1937-1938	748	-	-	616	82.4	635	84.9
1938-1939	766	-	-	588	76.8	-	-
1943-1944	583	-	-	251	43.1	314	53.9
1944-1945	725	-	-	351	48.4	523	72.2
1945-1946	731	-	-	370	50.6	578	79.1
1946-1947	763	-	-	581	76.1	666	87.3
1947-1948	799	-	-	521	65.2	648	81.1
1948-1949	806	134 <sup>1</sup>	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1026	212	20.6	840	81.8	917	89.3
1953-1954	1175	268	22.8	1077	91.7	1119	95.2
1954-1955	1234	283	22.9	1063	86.1	1170	94.8
1955-1956	1333	332	24.9	1234	92.5	1283	96.2
1956-1957	1418	210	14.7	1295	91.3	1349	95.1
1957-1958	1558	340	21.8	1484	95.2	1509	96.8
1958-1959	995 <sup>2</sup>	200	20.4	864	86.8	902	90.6
1958-1960	1100	256	23.2	838	76.1	963	87.4
1959-1961	1362	243	18.1	1090	80.0	1142	83.8
1960-1962	1309	200	15.5	1059	80.9	1121	85.6
1961-1963	1624	280	17.2	1314	80.9	1430	88.0
1962-1964	1495	213	14.2	1268	84.8	1356	90.7
1963-1965	1700	282	16.6	1444	84.9	1527	89.8
1964-1966	1562	245	16.3	1330	85.1	1395	89.3
1965-1967	1883	323	17.4	1551	84.5	1643	89.6
1966-1968	1647	281	17.1	1409	85.5	1470	89.1
1967-1969	1821	249	13.4	1501	82.4	1601	87.9
1968-1970	1894	360	18.9	1463	77.0	1549	81.6
1969-1971	1992	237	11.8	1504	75.5	1707	85.6
1970-1972	2025	297	14.6	1572	77.6	1753	86.5
1971-1973	2048	300	14.6	1521	74.3	1691	82.5

<sup>1</sup> First year for which this figure is available.

<sup>2</sup> As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 until 1976 only on certain ratified Conventions.

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1972-1974	2189	370	16.5	1854	84.6	1958	89.4
1973-1975	2034	301	14.8	1663	81.7	1764	86.7
1974-1976	2200	292	13.2	1831	83.0	1914	87.0
1977	1529 <sup>3</sup>	215	14.0	1120	73.2	1328	87.0
1978	1701	251	14.7	1289	75.7	1391	81.7
1979	1593	234	14.7	1270	79.8	1376	86.4
1980	1581	168	10.6	1302	82.2	1437	90.8
1981	1543	127	8.1	1210	78.4	1340	86.7
1982	1695	332	19.4	1382	81.4	1493	88.0
1983	1737	236	13.5	1388	79.9	1558	89.6
1984	1669	189	11.3	1286	77.0	1412	84.6
1985	1666	189	11.3	1312	78.7	1471	88.2
1986	1752	207	11.8	1388	79.2	1529	87.3
1987	1793	171	9.5	1408	78.4	1542	86.0
1988	1636	149	9.0	1230	75.9	1383	84.4
1989	1719	196	11.4	1256	73.0	1409	81.9
1990	1958	192	9.8	1409	71.9	-	-
1991	2010	271	13.4	1411	69.9	-	-

<sup>3</sup> As a result of a decision by the Governing Body (November 1976), detailed reports are now requested, according to certain criteria, at yearly, two-yearly or four-yearly intervals.

## **II. Observations on the Application of Conventions in Non-Metropolitan Territories**

(Article 22 and Article 35, Paragraphs 6 and 8, of the Constitution)

### **A. GENERAL OBSERVATIONS**

#### Netherlands

##### Aruba

The Committee notes with regret that the first reports on Conventions Nos. 121, 140 and 142 and on Convention No. 141, due in 1988 and 1989 respectively, have not been received. It trusts that the Government will in future discharge its obligation to supply reports on the application of ratified Conventions.

\* \* \*

In addition, a request regarding certain points is addressed directly to France (French Southern and Antarctic Territories).

### **B. INDIVIDUAL OBSERVATIONS**

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

Requests regarding certain points are being addressed directly to the following States: Denmark (Greenland), France (Overseas Territories: New Caledonia, French Polynesia), United Kingdom (Jersey).

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

##### Denmark

##### Faeroe Islands

The Committee notes with satisfaction the adoption of the Seafarers' Act No. 4 of 15 January 1988 which has eliminated - in



conformity with the Convention - distinctions based on nationality in the payment of unemployment indemnity in case of shipwreck previously provided for in the Danish text of the Faeroese Seamen's Act No. 57 of 1967.

\* \* \*

In addition, a request regarding certain points is being addressed directly to Denmark (Faeroe Islands).

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

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territory: French Polynesia), United Kingdom (St. Helena).

Information supplied by the United Kingdom (Jersey) in answer to a direct request has been noted by the Committee.

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

Information supplied by the Netherlands (Aruba) in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following State: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territories: French Polynesia, New Caledonia).

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

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

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

The Committee refers to its observation made under Convention No. 17 concerning the Netherlands (Netherlands Antilles).

Netherlands Antilles

Article 7 of the Convention. The Committee notes from the reply of the Government to its previous observation that no progress has been made towards supplementing the national legislation with a provision expressly providing for additional compensation to the occupationally injured worker who needs the constant help of another person, although such a compensation is granted in practice. It recalls that in its previous report the Government had recognised the need to bring the legislation formally into conformity with the Convention on this point at the soonest occasion. The Committee therefore once again hopes that the Government will not fail to take the necessary measures in the very near future and will indicate progress made in this respect in its next report. It also asks the Government to continue to supply all available information on the application in practice of this Article of the Convention (i.e. written rules stipulating the conditions and the amount of such additional compensation, statistical data on benefits so granted, etc.).

United KingdomBritish Virgin Islands

Further to its previous observations, the Committee notes from the Government's report that measures are being taken towards the inclusion of the Workmen's Compensation Scheme in the general Social Security Scheme and that the draft regulations relating to employment injury benefits are currently in the final drafting stage and should be presented to the Executive Council in the near future. The Committee therefore once again hopes that these regulations will be adopted very soon so as to give full effect to the Convention in particular on the following points, which have been the subject of its comments for a number of years:

1. Article 2, paragraph 2(c), of the Convention. Under section 2, subsection 1(d), of the 1962 Ordinance, members of the employer's family dwelling in his house are excepted from its scope, whereas the Convention only allows this exception when the members of the family work exclusively on his behalf and live in his house.

2. Article 5. Under section 8, subsection 1(a), (b) and (c), of the 1962 Ordinance, compensation in cases of death or permanent incapacity is paid in the form of a lump sum corresponding to a certain number of months' wages, whereas the Convention, although it

does not fix the rate of compensation, provides that it shall be paid in the form of periodical payments, provided that it may be wholly or partially paid in a lump sum if the competent authority is satisfied that the sum will be properly utilised.

3. Article 7. Section 9 of the Ordinance provides for the payment of additional compensation when the injured worker requires the constant assistance of another person only in cases of temporary incapacity, whereas the Convention makes no distinction in this respect between temporary and permanent incapacity.

4. Article 9. The new legislation should provide unequivocally for free medical, surgical and pharmaceutical aid for injured workers, irrespective of the urgency of the case.

5. Article 10. Section 10 of the Ordinance provides for the supply of artificial limbs only when they may improve working capacity, whereas the Convention allows no such restriction. Furthermore, the Ordinance does not appear to contain - as the Convention does - provisions establishing the general principle of the free supply and renewal of artificial limbs and surgical appliances.

6. With regard to the application of Article 11 of the Convention, the Committee considers that the provisions of section 29 of the Ordinance could prove to be inadequate to ensure, in all circumstances, in accordance with this provision of the Convention, the payment of compensation to the beneficiaries in the event of the insolvency of the employer or insurer. It thus considers that the inclusion of the workmen's compensation scheme in the general social security scheme would be the best guarantee and would result in the full application of the Convention on this point.

The Committee requests the Government to indicate any progress made in this respect as well as to supply a copy of the Social Security (Amendment) Act No. 20 of 1990 to which the Government referred in its report.

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

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

#### France

Overseas Department (Territorial Community of St. Pierre and Miquelon)

In its previous comments the Committee noted the Government's statement that, in order to eliminate the difference in treatment between foreign workers and French wage-earners who suffer personal injury due to industrial accidents happening at St. Pierre and Miquelon and who cease to reside in French territory, the Government of the French Republic was examining the measures to be taken. It was contemplating extending to the territory of St. Pierre and Miquelon the provision in the fourth paragraph of section L.434.20 of the Social Security Code, which provides that the provisions of the laws in question may be modified by international treaties or Conventions.

Since the Government's last report did not contain any information on this subject, the Committee can only express once again the hope that the Government will be able to indicate in its next report the measures taken to eliminate, in respect of foreign workers who are nationals of any other State that has ratified the Convention and their dependants, the restrictions provided in section 18 of Order No. 177 of 15 March 1966 to set up an insurance scheme covering industrial accidents in the territory of St. Pierre and Miquelon and section 29 of Decree No. 57-245 of 24 February 1957 on compensation for industrial accidents and occupational diseases in the Overseas Territories.

#### Overseas Territories (French Polynesia)

Article 1, paragraph 2, of the Convention. With reference to its previous comments, the Committee cannot but note that the legislative measures which the Government has announced for some years and which are to ensure that the same treatment as nationals in respect of workmen's compensation is granted to foreign workers who suffer personal injury due to industrial accidents, or to their dependants, in the event of their residing abroad, have still not been adopted. It recalls in particular that, in its previous report received in 1988, the Government stated that, as in the case of New Caledonia, the Minister of Overseas Departments and Territories had requested the High Commissioner of the Republic in French Polynesia to amend, by the decision of the Territorial Assembly, section 29 of Decree No. 57-245 of 24 February 1957 so as to ensure, inter alia, that the nationals of other member States which have ratified the Convention enjoy the same benefits as French workers, without any condition as to residence.

In its latest report, the Government indicates that the question will be discussed at a future meeting of the Board of the Social Welfare Fund, and that the draft text is to be submitted to the Council for Social Protection for its opinion.

While noting this information, the Committee trusts that the Government will take the necessary measures to amend section 29 of Decree No. 57-245 of 24 February 1957 so that all nationals of States which have ratified the Convention and their dependants enjoy equality of treatment in respect of compensation for industrial accidents without any condition as to residence and irrespective of the existence of any other reciprocity agreements. The Committee asks the Government to indicate the measures taken in this respect in its next report.

[The Government is asked to report in detail for the period ending 30 June 1993.]

#### (New Caledonia)

Article 1, paragraph 2, of the Convention. With reference to its previous comments, the Committee notes with satisfaction the information supplied by the Government in its report, that section 7 of Decision No. 57 of 15 January 1990 concerning various social protection measures has repealed the last subsection of section 1 of Decision No. 112 of 24 July 1985 which specified that any expenses

incurred in making payment of industrial accident benefits to foreign workers or their dependants outside the territory would be deducted from such payment. According to the Government's report (Fund for Social Protection) CAFAT is now responsible for these expenses, regardless of the beneficiary's situation.

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

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

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

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

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

In addition, requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba), United Kingdom (Anguilla).

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

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territories: French Polynesia, New Caledonia), Netherlands (Netherlands Antilles).

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

##### France

Overseas Departments (French Guiana, Guadeloupe, Martinique and Réunion)

See under Convention No. 42, France.

##### Territorial Community of St. Pierre and Miquelon

In its previous report the Government stated that, in view of the competence of the Territorial Community of St. Pierre and Miquelon as regards occupational diseases - a competence conferred by section 44

of Decree No. 57-245 of 1957 - the Community's attention would be especially drawn to the need to issue Orders extending the schedules of occupational diseases annexed to Book IV of the Social Security Code permitting compensation for the pathological manifestations referred to in Article 2 of the Convention. Since the Government's latest report does not contain any information on this subject, the Committee trusts that the Government's next report will not omit to indicate the progress made in that direction. It also hopes that, when the aforementioned Orders are adopted, the comments which the Committee is addressing to France on the application of Convention No. 42 will be taken fully into account.

#### Overseas Territory (French Polynesia)

With reference to its previous comments, the Committee has noted with satisfaction the adoption of Order No. 826/CM of 6 August 1990 enumerating the morbid manifestations regarded as occupational diseases in French Polynesia. This Order, which repeals Order No. 30/IT of 9 January 1959, makes it possible to bring the territorial regulations into closer conformity with the Convention as regards compensation for certain occupational diseases enumerated in the schedule annexed thereto.

However, since the schedules enumerating occupational diseases which are annexed to Order No. 826/CM of 6 August 1990 have the same characteristics as the schedules prescribed in sections L.461-2 and R.461-3 of the Social Security Code of metropolitan France, the Committee also asks the Government to refer to the observation it is addressing to France with regard to the application of Convention No. 42.

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

A request regarding certain points is being addressed directly to France (Overseas Territory: New Caledonia).

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

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territory: French Polynesia), United States (American Samoa, Guam, Puerto Rico, Trust Territory of Pacific Islands (Palau), United States Virgin Islands).

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

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

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

Requests regarding certain points are being addressed directly to the United Kingdom (Bermuda, Gibraltar, St. Helena).

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

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

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

Requests regarding certain points are being addressed directly to the following States: France (Overseas Department: Territorial Community of St. Pierre and Miquelon; Overseas Territory: French Polynesia), United Kingdom (Guernsey).

**Convention No. 68: Food and Catering (Ships' Crews), 1946**United KingdomIsle of Man

Further to its previous comments, the Committee notes with satisfaction that, in view of the too detailed and restrictive nature of the earlier scales of provisions for different nationalities of seafarers, and since in practice most of the non-United Kingdom crews were actually signed on for United Kingdom provisions, new Provisions and Water Regulations (MSN 144 of 1990) have been issued, replacing the 1972 Regulations and laying down general requirements as to quantity and quality in conformity with Article 5 of the Convention.

The Committee has also noted the information supplied in respect of Articles 3, 4, 7, 8 and 9 of the Convention. It trusts the Government will continue to describe the practical application of the Convention.



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

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territory: French Polynesia), Netherlands (Aruba, Netherlands Antilles), United Kingdom (Isle of Man).

**Convention No. 74: Certification of Able Seamen, 1946**

Requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba, Netherlands Antilles), United States (Guam, Puerto Rico, United States Virgin Islands).

**Convention No. 81: Labour Inspection, 1947**NetherlandsNetherlands Antilles

Articles 20 and 21 of the Convention. Further to its previous observations, the Committee notes that a comprehensive labour inspection report covering the years 1985-88 is currently being completed and more recent statistics are being processed. However, in the absence of the annual inspection reports or the detailed information requested in the report form approved by the Governing Body, the Committee is in the meantime unable to evaluate the extent to which the Convention is applied in practice. It hopes the necessary data will soon be supplied.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba), United Kingdom (Gibraltar, Isle of Man).

Information supplied by United Kingdom (Guernsey) in answer to a direct request has been noted by the Committee.

**Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947**

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

**Convention No. 87: Freedom of Association and Protection  
of the Right to Organise, 1948**

Requests regarding certain points are addressed directly to Netherlands (Aruba, Netherlands Antilles).

**Convention No. 94: Labour Clauses (Public Contracts), 1949**

Requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba, Netherlands Antilles), United Kingdom (Anguilla).

**Convention No. 95: Protection of Wages, 1949**

Requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba), United Kingdom (Isle of Man).

**Convention No. 98: Right to Organise and Collective Bargaining, 1949**

A request regarding certain points is being addressed directly to Australia (Norfolk Island).

**Convention No. 100: Equal Remuneration, 1951**FranceOverseas Territory (French Polynesia)

Further to its previous comments, the Committee notes with satisfaction that section 18 of Act No. 86-845 of 17 July 1986 concerning the general principles of labour law and the organisation and operation of the labour inspectorate and labour tribunals in French Polynesia guarantees equal remuneration for women and men for the same work or for work of equal value and provides that "jobs are considered as having an equal value when, taken as a whole, they require of workers comparable qualifications, diploma or equivalent experience, ability gained through experience, responsibilities and physical or mental demands".

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion,

Territorial Community of St. Pierre and Miquelon; Overseas Territories: French Polynesia, New Caledonia), New Zealand (Tokelau), United Kingdom (Gibraltar).

### **Convention No. 101: Holidays with Pay (Agriculture), 1952**

A request regarding certain points is addressed directly to the United Kingdom (Hong Kong).

### **Convention No. 105: Abolition of Forced Labour, 1957**

Information supplied by United Kingdom (Montserrat) in answer to a direct request has been noted by the Committee.

### **Convention No. 111: Discrimination (Employment and Occupation), 1958**

#### France

Overseas Territory (French Southern and Antarctic Territories)

1. The Committee refers to its general observations of 1990 and the previous years, concerning the communications from the National Federation of Maritime Trade Unions (FNSM) concerning the application of Convention No. 111, in the French Southern and Antarctic Territory (TAAF). Since Convention No. 111 was declared applicable without modification to this territory in March 1990, this year the Committee proposes to examine the substance of the comments made by the FNSM.

2. The Committee recalls that the comments of the FNSM concern the system for the registration of vessels in the TAAF, which is governed by Decree No. 87.190 of 20 March 1987 and the Order of 20 March 1987. Under this system, the proportion of crew members of French nationality may not be less than 25 per cent of the seafarers registered on the crew list, including two to four officers according to the type of vessel. According to the FNSM, this means that 75 per cent of registered crews can be made up of foreign seafarers engaged under discriminatory conditions, the purpose being to reduce crew costs as far as possible by cutting back substantially on the social conditions of the foreign seafarers engaged.

3. The Committee refers in this context to the comments and information supplied by the Government on several occasions since 1988. The Government indicates, in particular, that differences in remuneration or social security coverage are based only on distinctions in professional qualification and, as a consequence, the posts occupied on board the vessel, and are not based on any of the grounds of discrimination set out in Convention No. 111 and that, even in the absence of a declaration of their application to the TAAF the

ratified maritime Conventions were observed and a check carried out prior to registration. The Government provided extracts of inspection reports concerning five vessels registered in the TAAF, from shipping companies with a total of some 15 vessels operating under the same system.

4. The Government considers that the FNSM's criticism of the differences between the wages of French seafarers and those of other nationalities is based on a misinterpretation of Convention No. 111 since, in the opinion of the Committee of Experts itself, the reference in the Convention to "national extraction" does not cover the situation of persons of foreign nationality.

5. The Government also indicates that the overseas Labour Code (Act No. 52-1322 of 15 December 1952), which applies to seafarers on board vessels registered in the TAAF, is perfectly in keeping with the standards of Convention No. 111, particularly section 91 of the Code which provides that for "equal conditions of work, occupational qualifications and output, wages shall be equal for all workers regardless of their origin, sex, age or status".

6. The Government states that, at 19 October 1991, 755 seafarers and officers were engaged on board vessels registered in the TAAF, including 60 officers and 386 foreign seafarers, and that no individual complaints about wage discrimination have been filed by these seafarers directly or through a trade union organisation with the French administrative authorities or the competent jurisdictions.

7. Lastly, the Government states that the legislation in force in the TAAF does not deprive the trade union organisations of the right to negotiate collective agreements on conditions of work and remuneration, enabling observance of the principle of equal treatment to be reinforced and that the Government pays particular attention to encouraging collective bargaining as it has done in a recent case.

8. The Government therefore considers that the observations of the FNSM are totally unfounded.

9. The Committee takes due note of all the above indications. It proposes to examine the differences in wages which may exist between foreign crew members and crew members of French nationality.

10. In this connection, the Committee notes that the Government observes correctly that the reference in the Convention to "national extraction" does not cover the situation of persons of foreign nationality. However, it should be pointed out that the Convention extends to foreign nationals protection against any discrimination based on one of the criteria set out in Article 1, paragraph 1(a), including race, colour or social origin, and on any other grounds that might be specified after consultation with representative employers' and workers' organisations, where such exist, in accordance with the provisions of paragraph 1(b) of the same Article.

11. With regard to the wages of foreign personnel, the Committee notes the amounts referred to in the extracts of inspection reports supplied by the Government. It notes that these amounts are indicated as being higher than the ILO standards (and they are indeed higher than the basic standard fixed at the time for a qualified seafarer). It also notes that the collective contract for the recruitment of seafarers by the foreign agency which supplies the French shipowner with personnel is sometimes countersigned by the International

Federation of Transport or checked by the maritime administration of the country of recruitment.

12. However, the Committee notes from the inspection reports that the amount budgeted by the shipowner for a foreign workpost and for a French workpost is four to five times higher for the latter and that, consequently, there is a considerable difference between the wages of foreign personnel and those of French personnel.

13. The Committee notes that the foreign personnel on the five vessels inspected are of Korean, Indian, Filipino, Polish and Turkish nationality respectively. It notes that these workers hold posts as officers or seafarers and that their qualifications cannot reasonably be a justification for such large differences in wages as those noted. Consequently, the foreign nationality of these persons is clearly the only common denominator and the main reason for the difference between their remuneration and that of French personnel.

14. Since the term "national extraction", in paragraph 1(a) of Article 1 of the Convention, does not refer to nationality, the foreign personnel in question cannot, admittedly, avail themselves of the provision in question.

15. The Committee observes, however, that section 91 of the overseas Labour Code which, according to the Government, applies to the foreign seafarers concerned, establishes equal remuneration for workers regardless, inter alia, of "their origin", which, it would seem, should also cover their nationality. Any preference or distinction based on the origin of the worker would therefore constitute a specific discrimination, in the meaning of paragraph 1(b) of Article 1 of the Convention. Accordingly, the differences in wages applied to foreign seafarers on vessels registered in the TAAF should be regarded as constituting a discrimination covered by the Convention.

16. The Committee would therefore be grateful if the Government would indicate in its next report the measures taken or envisaged to bring national practice into conformity with the Convention.

17. The Committee refers to paragraphs 56 and 57 of its General Report of 1991 and to paragraphs 62 and 63 of its General Report of this year.

\* \* \*

In addition, requests regarding certain points are being addressed directly to New Zealand (Tokelau).

### **Convention No. 113: Medical Examination (Fishermen), 1959**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 114: Fishermen's Articles of Agreement, 1959**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 115: Radiation Protection, 1960**

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territory: New Caledonia), United Kingdom (Bermuda, Guernsey, Hong Kong, Jersey).

**Convention No. 120: Hygiene (Commerce and Offices), 1964**FranceOverseas Territory (French Polynesia)

The Committee notes with satisfaction the adoption of Deliberation No. 91-013 AT of 17 January 1991 concerning occupational safety and health which ensures the implementation of Act No. 86-845 of 17 July 1986 respecting the general principles of labour law applicable in French Polynesia. In previous comments, the Committee had noted that Act No. 86-845 called for general occupational safety and health measures to be taken in the workplace, but did not provide for specific measures to ensure the application of several Articles of the Convention. The Committee, therefore, notes with satisfaction that Deliberation No. 91-013 AT contains the measures necessary to ensure the application of Articles 10, 11, 13, 15, 16 and 17 of the Convention.

The Committee is raising certain other points in a request addressed directly to the Government.

\* \* \*

In addition, a request regarding certain points is being addressed directly to France (Overseas Territory: French Polynesia).

**Convention No. 122: Employment Policy, 1964**

Requests regarding certain points are being addressed directly to the following States: Australia (Norfolk Island), Denmark (Greenland), France (Overseas Department: Territorial Community of St. Pierre and Miquelon; Overseas Territory: New Caledonia), Netherlands (Netherlands Antilles, Aruba), United Kingdom (Hong Kong, Isle of Man).

**Convention No. 123: Minimum Age (Underground Work), 1965**

Requests regarding certain points are being addressed directly to France (Overseas Territories: French Polynesia, New Caledonia).

**Convention No. 126: Accommodation of Crews (Fishermen), 1966**

Requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba), United Kingdom (Isle of Man).

Information supplied by France (Overseas Territory: New Caledonia) in answer to a direct request has been noted by the Committee.

**Convention No. 129: Labour Inspection (Agriculture), 1969**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 131: Minimum Wage Fixing, 1970**

A request regarding certain points is being addressed directly to Netherlands (Aruba).

**Convention No. 135: Workers' Representatives, 1971**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 137: Dock Work, 1973**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 138: Minimum Age, 1973**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).



**Convention No. 141: Rural Workers' Organisations, 1975**

A request regarding certain points is being addressed directly to France (Overseas Territory: French Polynesia).

**Convention No. 142: Human Resources Development, 1975**

Requests regarding certain points are being addressed directly to France (Overseas Departments: Guadeloupe, French Guiana, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territory: New Caledonia).

**Convention No. 144: Tripartite Consultation  
(International Labour Standards), 1976**

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territory: French Polynesia), Netherlands (Aruba).

**Convention No. 145: Continuity of Employment (Seafarers), 1976**

Requests regarding certain points are being addressed directly to the following States: France (Overseas Territories: New Caledonia, French Polynesia), Netherlands (Aruba).

**Convention No. 146: Seafarers' Annual Leave with Pay, 1976**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 147: Merchant Shipping (Minimum Standards), 1976**

United Kingdom

Hong Kong

Article 2(a) of the Convention. 1. In previous comments the Committee referred to the need for legislation on hours of work on board ship, and the Government mentioned proposed regulations on rest periods for watchkeepers. The Government now indicates that shipowners' and seafarers' organisations have been consulted, and that the conclusion is that hours of work regulations for seafarers in general are not necessary, given the current administrative measures

whereby standard clauses are satisfactorily included in articles of agreement; it makes no new mention of any regulation of the subject. The Committee refers again to the explanations in paragraphs 94-98 of its 1990 General Survey of the Convention. It recalls also the findings of a recent study commissioned by the UK Government in this respect and hopes further consideration will be given to the need to meet the Convention's requirements for ships registered in the territory.

2. (Convention listed in the Appendix to Convention No. 147 but not declared applicable without modification to Hong Kong.)

Convention No. 87. The Committee recalls that no modification has been registered in respect of the application of Convention No. 87 under Article 2(a) of Convention No. 147. In its previous comment, the Committee referred to the explanations in paragraphs 188, 190 and 192 of its 1990 General Survey and requested indications as to how, in respect of ships registered in the territory, workers are guaranteed the rights referred to in Articles 3, 5 and 6. The Committee has noted with interest the general provisions in the 1991 Bill of Rights Ordinance relating to freedom of association. It notes also that there is a complaints procedure covering questions of trade union participation. It would be grateful if the Government would describe in addition how seafarers are assured the right to form and join organisations which may draw up their own constitutions and rules, freely elect their representatives, organise their administration and activities and formulate their programmes (Article 3) and which may establish and join federations and confederations and affiliate with international organisations (Article 5), such federations and confederations having the same rights as referred to under Article 3 (Article 6).

3. The Committee would be glad if the Government would describe the measures of verification undertaken in respect of all the matters dealt with in Article 2(a) of the Convention, under Article 2(f).

The Committee is again referring to certain matters in a direct request.

\* \* \*

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), Netherlands (Aruba), United Kingdom (Bermuda, Gibraltar, Hong Kong, Isle of Man), United States (American Samoa, Guam, Northern Mariana Islands, Trust Territory of Pacific Islands (Palau), Puerto Rico, United States Virgin Islands).

**Convention No. 149: Nursing Personnel, 1977**

A request regarding certain points is being addressed directly to France (Overseas Department: Territorial Community of St. Pierre and Miquelon).

**Convention No. 151: Labour Relations (Public Service), 1978**United KingdomHong Kong

The Committee notes the Government's report and the decisions by the Committee on Freedom of Association in Case No. 1553 (277th and 281st Reports, approved by the Governing Body at its 249th and 252nd Sessions, February-March 1991 and 1992).

1. Article 7 of the Convention. The Committee takes note of the information provided by the Government in reply to its previous observation, and requests it to provide in its future reports information on the functioning, in practice, of the consultation and collective bargaining machinery.

2. Articles 5(2) and 8. The Committee notes the conclusions of the Committee on Freedom of Association in Case No. 1553, which concerned a complaint of violations of freedom of association made by various postal unions.

The Committee recalls in this respect that, under Article 5(2) of the Convention, public employes' organisations should "enjoy adequate protection against any acts of interference by a public authority in their ... functioning or administration" and that under Article 8, the settlement of disputes should be sought "through negotiation between the parties or through independent and impartial machinery ..., established in such a manner as to ensure the confidence of the parties involved".

The Committee trusts that in future, these principles will be applied for the settlement of disputes in the public service, so as to ensure the confidence of the parties involved.

**Convention No. 160: Labour Statistics, 1985**

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

**Appendix. Receipt of Detailed Reports on Ratified Conventions  
(Non-Metropolitan Territories) as at 25 March 1992**

(Article 22 and 35 of the Constitution)

<i>Countries and Territories</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
<b>GRAND TOTAL</b>	309		89		398
<b>AUSTRALIA</b>					
NORFOLK ISLAND	4	10 27 29 105	0		4
<b>TOTAL</b>	4		0		4
<b>DENMARK</b>					
FAEROE ISLANDS	7	5 16 19 27 29 53 105	0		7
GREENLAND	5	5 16 19 29 105	0		5
<b>TOTAL</b>	12		0		12
<b>FRANCE</b>					
FR. SOUTHERN & ANTARCTIC TER.	3	8 15 23	3	9 16 22	6
FRENCH GUIANA	14	10 16 19 27 29 73 87 105 113 123 124 135 141 142	15	5 13 32 53 62 69 74 81 94 95 100 125 129 136 147	29
FRENCH POLYNESIA	21	5 10 13 16 19 29 33 53 63 73 81 96 100 105 123 125 129 141 142 144 147	1	69	22
GUADELOUPE	15	10 16 19 27 29 73 87 105 113 123 124 129 135 141 142	14	5 13 32 53 62 69 74 81 94 95 100 125 136 147	29
MARTINIQUE	14	10 16 19 27 29 73 87 105 113 123 129 135 141 142	15	5 13 32 53 62 69 74 81 94 95 100 124 125 136 147	29
NEW CALEDONIA	23	5 10 13 16 19 29 33 44 53 63 69 73 81 96 100 105 122 123 125 126 129 141 147	1	142	24

NON-METROPOLITAN TERRITORIES

Countries and Territories	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
REUNION	15	10 16 19 21 29 73 87 105 113 123 124 129 135 141 142	14	5 13 32 53 62 69 74 81 94 95 100 125 136 147	29
ST. PIERRE AND MIQUELON	15	10 16 19 29 73 77 78 87 88 105 123 124 129 141 142	16	5 13 33 53 63 69 81 82 94 95 96 100 125 144 147 149	31
TOTAL	120		79		199
NETHERLANDS					
ARUBA	33	8 9 11 12 14 17 22 23 25 29 45 81 87 88 89 90 94 95 101 105 106 113 114 126 129 131 135 137 138 144 145 146 147	8	69 74 118 121 122 140 141 142	41
NETHERLANDS ANTILLES	8	10 29 33 69 74 81 105 118	0		8
TOTAL	41		8		49
NEW ZEALAND					
TOKELAU ISLANDS	5	29 82 100 105 111	0		5
TOTAL	5		0		5
UNITED KINGDOM					
ANGUILLA	6	19 29 59 85 94 105	0		6
BERMUDA	8	10 16 19 29 59 105 135 147	0		8
BRITISH VIRGIN ISLANDS	6	10 19 29 59 85 105	0		6
FALKLAND ISLANDS (MALVINAS)	7	10 19 29 32 59 105 141	0		7
GIBRALTAR	13	16 19 29 59 63 81 100 105 135 142 147 151 160	0		13
GUERNSEY	14	5 10 16 19 29 63 69 74 81 105 135 141 142 151	1	32	15
HONG KONG	14	10 16 19 29 32 59 63 74 81 105 141 142 147 151	0		14

## 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>	
ISLE OF MAN	13	5 10 16 19 29 32 63 69 74 81 105 126 147	0		13
JERSEY	11	5 10 16 19 29 32 69 74 81 105 160	1	63	12
MONTSERRAT	6	16 19 29 59 85 105	0		6
ST. HELENA	9	10 16 19 29 59 63 85 105 151	0		9
TOTAL	107		2		109
UNITED STATES					
AMERICAN SAMOA	3	53 144 147	0		3
GUAM	4	53 74 144 147	0		4
NORTHERN MARIANA ISLANDS	2	144 147	0		2
PACIFIC ISLANDS	1	53	0		1
PALAU	2	144 147	0		2
PUERTO RICO	4	53 74 144 147	0		4
UNITED STATES VIRGIN ISLANDS	4	53 74 144 147	0		4
TOTAL	20		0		20

### **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 comments. It recalls that the instruments adopted from the 65th to the 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 as soon as circumstances permit to the People's 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 and 76th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

#### Antigua and Barbuda

The Committee notes with regret that for the sixth consecutive year the Government has not replied to its previous comments. 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, 75th, 76th and 77th Sessions, to the legislative body. 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.

#### Bangladesh

The Committee notes that the Government has not replied to its previous comments. It hopes that it will shortly indicate whether the



instruments adopted at the 70th, 71st, 72nd, 74th, 75th and 76th Sessions have been submitted to Parliament. The Committee recalls that, in effect, according to article 65(1) of the Bangladesh Constitution, there shall be a Parliament "... in which ... shall be vested the legislative powers of the Republic" and that under article 76(2) of the said Constitution "... Parliament shall appoint standing committees, and a committee so appointed may ... examine draft Bills and other legislative proposals ...". Thus, it would appear that Parliament is the competent authority for the enactment of legislation for the purposes of article 19 of the ILO Constitution. Conventions and Recommendations should therefore, as a rule, be submitted to Parliament. The Committee hopes that the Government will re-examine the matter and that it will also submit to Parliament the instruments adopted at the above-mentioned sessions of the Conference. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted.

#### Belize

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 69th to 76th Sessions of the Conference have been submitted to the National Assembly, which is empowered to legislate by virtue of articles 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 instruments adopted at the 77th Session of the Conference have been submitted.

#### Bolivia

The Committee notes that the instrument adopted at the 76th Session of the Conference has been submitted to the competent authority. The Committee recalls its previous observation and trusts that, in the near future, the Government will supply 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 instruments adopted at the 77th Session have been submitted.

#### Brazil

Further to its previous observation, the Committee notes with interest that the instruments adopted at the 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent

## SUBMISSION TO COMPETENT AUTHORITIES

authorities. It also notes the decisions communicated by the Government concerning various instruments already submitted and which were adopted from the 46th to the 71st Sessions of the Conference, and the information to the effect that the remaining instruments (Conventions Nos. 128 to 130, 149 to 151, 156, 157) will shortly be examined by the tripartite committees with a view to their submission to Congress.

### Cambodia

The Committee notes that no information has been supplied concerning the submission to the competent authorities of the instruments adopted by the Conference.

### Cape Verde

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will shortly indicate that the instruments adopted at the 75th and 76th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

### Central African Republic

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will shortly indicate that the instruments adopted at the 75th and 76th Sessions of the Conference 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 instruments adopted at the 77th Session of the Conference have been submitted.

### Congo

The Committee notes that the Government has not replied to its previous observation. It recalls the statement made by a government representative before the Conference Committee in 1990 and the discussion that followed, and hopes that the Government will shortly be able to indicate that the instruments adopted at the 60th, 61st, 62nd, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th and 77th 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 to 142, 145, 156, 163, 164 and 165) have been submitted to the competent authorities.

Costa Rica

The Committee notes with interest the information supplied by the Government concerning the submission to the competent authorities of Recommendation No. 167, adopted at the 69th Session of the Conference, and all the Recommendations adopted at the 71st, 72nd, 74th, 75th and 77th Sessions. The Committee hopes that the Government will shortly be able to indicate that the Conventions adopted at these sessions have also been submitted, as the first submission of these instruments was annulled owing to procedural flaws, according to information in the Government's report.

Djibouti

The Committee notes with regret that the Government has not replied to its observations since 1988. It trusts that it will shortly indicate that the instruments adopted at the 66th, 68th, 69th, 70th, 74th, 75th and 76th Sessions of the Conference have been submitted, and that it will supply, both for the instruments above and for those adopted at the 71st and 72nd Sessions, the information and documents requested in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government will indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Dominican Republic

With reference to its previous comments, the Committee notes with satisfaction that, according to the information and documents provided by the Government, the instruments adopted at the 63rd, 65th, 66th, 67th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities.

Ecuador

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 74th, 75th and 76th Sessions of the Conference have been submitted to Congress. Furthermore, the Committee would be grateful if the Government would also indicate whether the instruments adopted at the 77th Session have been submitted.

El Salvador

The Committee regrets to note that again this year the Government has not replied to its previous observations. In view of the return of peace, it trusts that it will shortly be able to indicate that the instruments adopted at the 62nd, 65th, 66th, 67th, 68th, 70th, 72nd, 74th, 75th and 76th 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 communicate 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 instruments adopted at the 77th Session of the Conference have been submitted.

Fiji

With reference to its previous comments, the Committee notes the Government's confirmation that the election of a Parliament in March 1992 should end the delay in the procedure for the submission of instruments to the competent authorities. It recalls that the instruments that remain to be submitted are those adopted at the 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference.

Gabon

The Committee notes that the Government has not replied to its previous observation. 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, as well as those adopted at the 72nd, 74th, 75th and 76th Sessions.

The Committee also hopes that the Government will supply information on the decisions taken regarding Conventions Nos. 133, 134 and 139 and Recommendations Nos. 129-132, 136-138, 140-142, 144, 147, 148 and 154, along with a copy of the document whereby they were submitted to the National Assembly in 1981.

Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Grenada

Further to its previous observation, the Committee notes with interest from the information and documents supplied by the Government at the Conference Committee in 1991, that the instruments adopted at the 68th and from the 70th to 75th Sessions of the Conference, as well

as Convention No. 159 and Recommendation No. 168 (69th Session) have been submitted to the competent authorities. The Committee also notes that the Government intends to submit shortly the instruments adopted at the 76th and 77th Sessions. The Committee hopes that the Government will provide, both for the instruments that have just been submitted to Parliament and those to be submitted, the information requested in the Memorandum adopted by the Governing Body concerning the Government's proposals or comments on any further action in respect of the instruments in question (point II(b) of the questionnaire). It recalls that the obligation to submit instruments does not imply that governments must propose the ratification or application of the instrument concerned.

#### Guinea

The Committee notes that the Government has not replied to its previous observation. It hopes that it will shortly provide for the instruments adopted from the 68th to 75th Sessions of the Conference, which have already been submitted to the competent authorities, the information requested under points II(b) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. It also hopes that it will indicate that the instrument adopted at the 76th Session has been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted.

#### Guinea-Bissau

The Committee notes with regret that, once again this year, the Government has not replied to its previous observations. It trusts that it will shortly indicate that the instruments adopted from the 63rd to 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, 75th and 76th Sessions. In addition, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply that Conventions must be ratified or Recommendations accepted.

#### Guyana

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 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to Parliament. Furthermore, the Committee asks the Government to

## SUBMISSION TO COMPETENT AUTHORITIES

indicate whether the instruments adopted at the 77th Session have been submitted.

The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply that the Conventions must be ratified or the Recommendations accepted.

### Haiti

Further to its previous comments, the Committee takes note of the information supplied by the Government to the effect that Convention No. 161, adopted at the 71st Session of the Conference, has been submitted to the competent authorities. It also notes the explanations provided by a government representative at the Conference Committee in 1991 concerning the difficulties that have prevented the other instruments in question from being submitted to the competent authority within the prescribed period, as well as the discussion that ensued and the conclusions of the Committee. The Committee hopes that the Government will shortly indicate that all the instruments adopted from the 67th to 77th Sessions of the Conference together with the remaining instruments of the 71st Session (Convention No. 160 and Recommendations Nos. 170 and 171) have been submitted to the competent authorities.

### India

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will shortly indicate that the instruments adopted at the 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

### Islamic Republic of Iran

The Committee notes the information supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 77th Session of the Conference. It hopes that the Government will supply in this respect the information requested under point II(b) and (c) of the questionnaire at the end of the Memorandum adopted by the Governing Body.

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 the 76th Sessions of the Conference were submitted and provide copies of the corresponding submission documents in accordance with the above Memorandum (point II(c) of the questionnaire).

Jamaica

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 indicate that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to Parliament. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted.

In its previous comments, the Committee recalled the statement by a Government representative to the Conference Committee in 1984 that Convention No. 132, Recommendation No. 136 and the instruments adopted from the 61st to the 69th Sessions of the Conference had been submitted to Parliament. It expressed the hope that the Government would supply the other information and documents called for in the Memorandum adopted by the Governing Body (points I and II of the questionnaire) (except as concerns Conventions Nos. 149 and 150, which have been ratified, and the corresponding Recommendations Nos. 157 and 158) and that it would supply information on the proposals made and the decisions taken with respect to the 45 instruments submitted to Parliament by a communication of the Minister of Labour and Employment dated 22 November 1976. The Committee once again hopes that the Government will soon supply the information and documents in question.

Kenya

With reference to its previous comments, the Committee notes the information supplied by the Government at the Conference Committee in 1991 and the discussion that followed. According to this information, since all the technical work concerning the instruments adopted from the 65th to the 76th Sessions of the Conference has now been completed, these instruments can be submitted shortly and the relevant documents will be communicated to the ILO, as there are no longer any technical difficulties which can delay their submission. The Committee therefore hopes that the Government will shortly indicate that the instruments have been submitted and would be grateful if the Government would also indicate whether the submission of the instruments adopted at the 77th Session has taken place.

Lao People's Democratic Republic

The Committee notes with interest the information and documents communicated by the Government concerning the submission to the competent authorities of the instruments adopted at the 77th Session of the Conference.

Referring to its previous comments, the Committee hopes that the Government will provide information on the action it intends to take in respect of the instruments adopted from the 66th to 75th Sessions of the Conference, which have already been submitted, and that it will be able to continue to submit, in stages if necessary, the remaining



## SUBMISSION TO COMPETENT AUTHORITIES

instruments (adopted from the 48th to 65th and at the 76th Sessions) in the near future.

### Lebanon

Further to its previous comments, the Committee notes with interest the information supplied by the Government, to the effect that the Conventions and Recommendations adopted from the 67th to the 77th Sessions of the Conference are now being examined with a view to their submission to Parliament. The Committee hopes that the other instruments, adopted from the 31st to 50th Sessions of the Conference, will also be submitted to the competent authorities as soon as possible.

### Lesotho

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will shortly indicate that Convention No. 157, adopted at the 68th Session of the Conference, and the instruments adopted at the 69th, 70th, 74th, 75th and 76th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

### Libyan Arab Jamahiriya

The Committee notes that the Government has not replied to its previous observation. It hopes that it will shortly indicate that the instruments adopted at the 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted.

### Madagascar

The Committee notes with regret that, for several years, the Government has not replied to its observations. It trusts that it will shortly provide information concerning the proposals made at the time of submission of 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, 75th and 76th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Malawi

Further to its previous observation, the Committee notes with interest the information provided by the Government concerning the submission to the competent authorities of many Conventions adopted at various Sessions of the Conference between the 55th and 75th. The Committee hopes that the Government will provide in this connection the information requested under point I of the questionnaire at the end of the Memorandum adopted by the Governing Body. It also hopes that Conventions Nos. 143 (60th Session), 145 (62nd Session) and 169 (76th Session), and Recommendations Nos. 137 to 142, 145 to 151, 153 to 156, 158 to 165, 167, 169 to 176 will also be submitted shortly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Mali

Further to its previous observation, the Committee notes the information provided by the Government, to the effect that the instruments adopted at the 74th, 75th and 76th Sessions of the Conference, which have already been transmitted to the Council of Ministers, will be submitted to the National Assembly as soon as possible. The Committee hopes that the Government will shortly be able to indicate that these instruments have been submitted. Furthermore, it would be grateful if it would indicate whether the instruments adopted at the 77th Session 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 the remaining instruments of the 59th and 67th Sessions of the Conference have been submitted to the competent authorities. It hopes that the Government will be able to indicate shortly that the remaining instruments of the 60th Session (Conventions Nos. 141 and 142; Recommendations Nos. 149 and 150), 63rd Session (Convention No. 149; Recommendation No. 157), 65th Session (Convention No. 152; Recommendation No. 160), 69th Session (Recommendation No. 167) and 71st Session (Convention No. 160; Recommendation No. 170) and the instruments adopted at the 64th, 66, 68th and 70th Sessions of the Conference have been submitted to Parliament. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Mongolia

The Committee notes that there has been no reply to its previous comments. It hopes that the Government will shortly provide information on the proposals and decisions concerning the instruments adopted at the 68th, 69th, 70th and 71st Sessions of the Conference, which have already been submitted to the competent authorities, and that it will indicate that the instruments adopted at the 75th and 76th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Nepal

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will shortly be able to indicate that the remaining instruments of 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 61st and at the 66th Sessions and those adopted at the 75th and 76th Sessions have been submitted to Parliament, and that it will provide, for all the above instruments, the information and documents requested in the Memorandum adopted by the Governing Body, particularly under point II(a) and (b) of the questionnaire. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Nigeria

The Committee takes note of the information supplied by the Government to the effect that the instruments adopted at the 77th Session of the Conference have been submitted to the competent authorities. It would be grateful if the Government would indicate the date on which these instruments and the instrument adopted at the 76th Session have been submitted, in accordance with point II(a) of the questionnaire at the end of the Memorandum adopted by the Governing Body. The Committee hopes that the instruments adopted at the 75th Session will also be submitted shortly.

Recalling its previous comments, the Committee hopes that the Government will shortly be able to provide information on the proposals and decisions concerning the instruments adopted from the 45th to 59th Sessions and from the 65th to 74th Sessions of the Conference, which have already been submitted but which have been in the process of re-examination by the Labour Advisory Council for some time, with a view to their possible ratification.

Pakistan

Further to its previous comments, the Committee notes the statement made by a government representative at the Conference Committee in 1991 to the effect that the Government would report in the coming months on its decisions concerning the numerous instruments that have not yet been submitted. It also notes the discussion that ensued and the conclusions of the Committee. In the absence of any new information, it trusts that the Government will shortly indicate that the instruments adopted from the 69th to 76th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted.

Panama

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly indicate whether the instruments adopted at the 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authority. In addition, it would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted.

Papua New Guinea

The Committee notes that there has been no reply to its previous observation. It recalls that in 1990 the Government expressed its intention to submit all the remaining instruments to Parliament. The Committee hopes that the Government will shortly be able to overcome the difficulties to which it referred at the time and to indicate in the near future that the instruments adopted from the 66th to 76th Sessions of the Conference and those adopted at the 77th Session have been submitted to the competent authorities.

Paraguay

With reference to its previous comments, the Committee notes the submission to the competent authorities of Convention No. 159 and Recommendation No. 168, adopted at the 69th Session of the Conference. In the absence of other information, the Committee trusts that the Government will shortly communicate the documents whereby the Minister for Foreign Affairs submitted to Congress the instruments adopted at the 62nd to 74th Sessions of the Conference. Furthermore the Committee hopes that the Government will state whether the instruments adopted at the 75th, 76th and 77th Sessions of the Conference have been submitted.

Peru

The Committee notes that, according to the information communicated by the Government, Convention No. 170 and Recommendation No. 177, adopted at the 77th Session of the Conference, have been submitted to the competent authorities.

With reference to its previous observation, the Committee hopes that the Government will shortly supply copies of the documents whereby Conventions Nos. 153, 155 and 157 and Recommendations Nos. 161, 164 and 167, adopted at the 65th, 67th, 68th and 69th Sessions of the Conference, were submitted to the Congress, together with the information requested in 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 shortly be able to state that the instruments adopted at the 70th, 72nd, 74th, 75th and 76th Sessions, and the remaining instruments of the 77th Session (Convention No. 171 and Recommendation No. 178) have also been submitted.

Saint Lucia

The Committee notes with regret that once again this year, the Government has not replied to its previous observations. It trusts that it will shortly indicate that the instruments adopted at the 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authorities and that it will provide for the above instruments the information and documents requested in the Memorandum adopted by the Governing Body, particularly as regards the nature of the competent authority and the Government's proposals or comments on the action to be taken in respect of the instruments concerned (points I(a) and II(b) of the questionnaire). Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted. It recalls in this connection that the authorities to which the instruments must be submitted are those empowered to legislate, and that the obligation to submit instruments to them does not imply that governments must propose their ratification or application.

Seychelles

The Committee regrets to note that the Government has never replied to the comments it has been making since 1979. It therefore expresses once again the firm hope that it will shortly indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th and 77th 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 wishes to recall in this connection that the authorities to which these instruments must be submitted are those empowered to legislate, in this case the People's Assembly. It also

recalls that the obligation to submit does not imply that governments must propose the ratification of the Conventions or application of the Recommendations in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities. Lastly, the Committee recalls that governments have the possibility of requesting ILO technical cooperation in areas where they encounter difficulties.

Sierra Leone

Further to its previous comments, the Committee notes the statement made by a government representative before the Conference Committee in 1991 concerning the staff difficulties which continue to affect the preparation of submission and other reports. It also notes the discussion that ensued and the conclusions of the Committee. It trusts that it will be possible for the Government to overcome the difficulties referred to and that it will shortly indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference, together with Convention No. 146 and Recommendation No. 154 (62nd Session), have been submitted to the competent authorities.

Solomon Islands

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will shortly indicate whether proposals have been made concerning the instruments adopted at the 74th Session of the Conference, which have already been submitted to the competent authorities, and that it will specify their content, as requested in the Memorandum adopted by the Governing Body (point II(c) of the questionnaire). The Committee also hopes that the Government will shortly indicate that the instruments adopted at the 70th, 71st, 72nd, 75th and 76th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Sudan

The Committee notes that the Government has not replied to its previous observation. It hopes that it will shortly indicate that the instruments adopted at the 72nd, 74th, 75th and 76th 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 instruments adopted at the 77th Session have been submitted.

## SUBMISSION TO COMPETENT AUTHORITIES

### Suriname

With reference to its previous comments, the Committee notes the information supplied by the Government at the Conference Committee in 1991 to the effect that due to the change of Government it has not been possible to submit the instruments adopted from the 65th to 77th Sessions of the Conference to the National Assembly. It also takes note of the discussion that ensued and of the conclusions of the Committee. In the absence of any new information, the Committee trusts that the Government will indicate in the near future that these instruments have been submitted and that it will provide in this connection the information and documents requested in the Memorandum adopted by the Governing Body.

### Syrian Arab Republic

Further to its previous observation, the Committee notes, according to the information supplied by the Government, that the instruments adopted at the 65th, 66th, 69th, 70th, 71st, 72nd, 75th and 76th Sessions of the Conference have been transmitted by the President of the Council of Ministers to a tripartite ministerial commission responsible for examining them before their submission to the People's Assembly. It hopes that the Government will be able to indicate in the near future that the above instruments have been submitted and that it will transmit 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 instruments adopted at the 77th Session of the Conference have been submitted.

### United Republic of Tanzania

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will 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 the 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 on which the instruments adopted from the 54th to the 65th Sessions and at the 69th, 70th and 71st Sessions were submitted to the Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

### Thailand

The Committee notes with regret that once again this year the Government has not replied to its previous observations. It trusts that the Government will soon indicate the decisions taken concerning



the instruments adopted at the 67th and 68th Sessions of the Conference and whether the submission to the competent authorities of the instruments adopted at the 72nd, 74th, 75th and 76th Sessions has now taken place. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Trinidad and Tobago

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon be able to indicate that the instruments adopted from the 74th to the 76th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session of the Conference have been submitted.

Uganda

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, 75th and 76th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th Session have been submitted.

Venezuela

The Committee has taken note of the difficulties encountered in Venezuela, according to the Government, in ratifying Convention No. 169 adopted at the 76th Session of the Conference. The Committee wishes to point out in this connection that, although the submission of the instruments adopted by the Conference to the competent authorities is an obligation under article 19 of the ILO Constitution, governments are entirely free to ratify or not to ratify the Conventions concerned. The Committee hopes, therefore, that the Government will state that the Convention in question has been submitted. In the absence of other information in response to its previous comments, the Committee also hopes that the Government will shortly supply, with reference to 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 state 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 state whether the instruments adopted at the 77th Session of the Conference have been submitted.

Zaire

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon indicate that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the Legislative Council. The Committee also hopes that the Government 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 instruments adopted at the 77th Session of the Conference have been submitted.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Argentina, Austria, Bahamas, Bahrain, Belgium, Benin, Botswana, Bulgaria, Burkina Faso, Cameroon, Canada, Chad, Chile, China, Colombia, Cuba, Cyprus, Czechoslovakia, Denmark, Dominica, Egypt, Equatorial Guinea, Ethiopia, France, Germany, Greece, Guatemala, Honduras, Hungary, Indonesia, Iraq, Ireland, Italy, Jordan, Kuwait, Liberia, Luxembourg, Malaysia, Mexico, Morocco, Mozambique, Myanmar, Netherlands, Niger, Philippines, Portugal, Qatar, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Senegal, Somalia, Spain, Sri Lanka, Swaziland, United Kingdom, Uruguay, Yemen, Yugoslavia, Zambia.

## 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)<sup>1</sup>

**Note.** The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31 to 70	71, 72, 74, 75, 76 and 77
Algeria	47 to 72	74, 75, 76 and 77
Angola	61 to 72	74, 75, 76 and 77
Antigua and Barbuda	68	69, 70, 71, 72, 74, 75, 76 and 77
Argentina	31 to 76	77
Australia	31 to 77	-
Austria	31 to 76	77
Bahamas	61 to 76	77
Bahrain	63 to 76	77
Bangladesh	58 to 69	70, 71 72, 74, 75, 76 and 77

<sup>1</sup> The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Barbados	51 to 77	-
Belarus, Republic of	37 to 77	-
Belgium	31 to 74	75, 76 and 77
Belize	68	69, 70, 71, 72, 74, 75, 76 and 77
Benin	45 to 74	75, 76 and 77
Bolivia	31 to 76	77
Botswana	64 to 75	76 and 77
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 77	51 (C 128), 53 (C 129, 130), 63 (C 149), 64, (C 150, 151), 67 (C 156) and 68 (C 157)
Bulgaria	31 to 76	77
Burkina Faso	45 to 76	77
Burundi	47 to 77	-
Cambodia	53, 54 and 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76 and 77
Cameroon	44 to 68, 72 and 74	69, 70, 71, 75, 76 and 77
Canada	31 to 76	77
Cape Verde	65 to 74	75, 76 and 77
Central African Republic	45 to 74	75, 76 and 77
Chad	45 to 74	75, 76 and 77
Chile	31 to 75	76 and 77
China	69 to 76	77
Colombia	31 to 70 and 71 (C 160; R 170) and 76	71 (C 161; R 171), 72, 74, 75 and 77
Comoros	65 to 77	-

## REPORT OF THE COMMITTEE OF EXPERTS

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
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, 76 and 77
Costa Rica	31 to 70, 71 (R 170, 171), 72 (R 172), 74 (R 173, 174), 75 (R 175, 176) 76 and 77 (R 177, 178)	71 (C 160, 161), 72 (C 162), 74 (C 163, 164, 165, 166), 75 (C 167, 168) and 77 (C 170, 171)
Côte d'Ivoire	45 to 77	-
Cuba	31 to 77	-
Cyprus	45 to 75	76 and 77
Czech and Slovak, Federal Republic	31 to 75	76 and 77
Denmark	31 to 77	-
Djibouti	64, 65, 67, 71 and 72	66, 68, 69, 70, 74, 75, 76 and 77
Dominica	68, 69 (C 159; R 167), 70 to 75 and 77	69 (R 168) and 76
Dominican Republic	31 to 77	-
Ecuador	31 to 72	74, 75, 76 and 77
Egypt	31 to 77	-
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, 76 and 77
Equatorial Guinea	67 to 72, 75 and 76	74 and 77
Ethiopia	31 to 76	77
Fiji	59 to 70	71, 72, 74, 75, 76 and 77
Finland	31 to 77	-
France	31 to 77	-

# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Gabon	45 to 71	72, 74, 75, 76 and 77
Germany	34 to 70, 71 (C 160; R 170), 72, 75 (C 167; R 175) and 76	71 (C 161; R 171), 74, 75 (C 168; R 176) and 77
Ghana	40 to 77	-
Greece	31 to 75	76 and 77
Grenada	66 to 68, 69 (C 159; R 168) and 70 to 75	69 (R 167), 76 and 77
Guatemala	31 to 70, 71 (C 160; 161; R 171), 72 and 75 (C 167; R 175)	71 (R 170), 74, 75 (C 168; R 176), 76 and 77
Guinea	43 to 75	76 and 77
Guinea-Bissau	63 to 70	71, 72, 74, 75, 76 and 77
Guyana	50 to 70	71, 72, 74, 75, 76 and 77
Haiti	31 to 66 and 71 (C 161)	67, 68, 69, 70, 71 (C 160; R 170, 171), 72, 74, 75, 76 and 77
Honduras	39 to 66, 68, 69, 71, 72 and 74 (C 164, 165, 166; R 174)	67, 70, 74 (C 163; R 173), 75, 76 and 77
Hungary	31 to 75	76 and 77
Iceland	31 to 77	-
India	31 to 70	71, 72, 74, 75, 76 and 77
Indonesia	33 to 77	-
Iran, Islamic Republic of	31 to 77	-
Iraq	31 to 76	77
Ireland	31 to 71	72, 74, 75, 76 and 77
Israel	32 to 77	
Italy	31 to 76	77
Jamaica	47 to 69	70, 71, 72, 74, 75, 76 and 77
Japan	35 to 77	-
Jordan	39 to 71, 74 and 76	72, 75 and 77

## REPORT OF THE COMMITTEE OF EXPERTS

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Kenya	48 to 68	69, 70, 71, 72, 74, 75, 76 and 77
Kuwait	45 to 72, 74, 75 (C 167; R 175) and 76	75 (C 168; R 176) and 77
Lao, People's Democratic Republic	66 to 75 and 77	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, 76 and 77
Lesotho	66, 67, 68 (C 158; R 166), 71 and 72	68 (C 157), 69, 70, 74, 75, 76 and 77
Liberia	31 to 75	76 and 77
Libyan Arab Jamahiriya	35 to 72	74, 75, 76 and 77
Luxembourg	31 to 76	77
Madagascar	45 to 54, 56 to 70	55, 71, 72, 74, 75, 76 and 77
Malawi	49 to 54, 55 (C 133, 134), 56, 58 (C 137, 138), 59 (C 139, 140), 60 (C 141, 142), 61, 62 (C 146, 147), 63 (C 148, 149; R 157), 64 (C 150, 151), 65 (C 152, 153), 67 (C 154, 155, 156), 68, 69 (C 159; R 168), 71 (C 160, 161), 72 (C 162), 74 (C 163, 164, 165, 166) and 75 (C 167, 168)	55 (R 137, 138, 139, 140, 141, 142), 58 (R 145, 146), 59 (R 47, 148), 60 (C 143; R 149, 150, 151), 62 (C 145; R 153, 154, 155), 63 (R 156), 64 (R 158, 159), 65 (R 160, 161), 66, 67 (R 163, 164, 165), 69 (R 167), 70, 71 (R 170, 171), 72 (R 172), 74 (R 173, 174), 75 (R 175, 176), 76 and 77
Malaysia	41 to 76	77
Mali	44 to 72	74, 75, 76 and 77
Malta	49 to 77	-



SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Mauritania	45 to 77	-
Mauritius	53 to 59, 60 (C 143; R 151), 61, 62, 63 (C 148; R 156), 65 (C 153; R 161), 67, 69 (C 159; R 168), 71 (C 161; R 171) and 72 to 76	60 (C 141, 142; R 149, 150), 63 (C 149; R 157), 64, 65 (C 152; R 160), 66, 68, 69 (R 167), 70, 71 (C 160; R 170) and 77
Mexico	31 to 76	77
Mongolia	53 to 74	75, 76 and 77
Morocco	39 to 76	77
Mozambique	61 to 76	77
Myanmar	31 to 77	-
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, 76 and 77
Netherlands	31 to 68, 69 (C 159; R 168), 70, 71 (C 160; R 170), and 72 to 77	69 (R 167) and 71 (C 161; R 171)
New Zealand	31 to 77	-
Nicaragua	40 to 77	-
Niger	45 to 74	75, 76 and 77
Nigeria	45 to 74, 76 and 77	75
Norway	31 to 77	-
Pakistan	31 to 68	69, 70, 71, 72, 74, 75, 76 and 77
Panama	31 to 69	70, 71, 72, 74, 75, 76 and 77
Papua New Guinea	61 to 65	66, 67, 68, 69, 70, 71, 72, 74, 75, 76 and 77
Paraguay	40 to 67 and 69 (C 159; R 168)	68, 69 (R 167), 70, 71, 72, 74, 75, 76 and 77
Peru	31 to 69, 71 and 77 (C 170; R 177)	70, 72, 74, 75, 76 and 77 (C 171; R 178)
Philippines	31 to 76	77
Poland	31 to 77	-

## REPORT OF THE COMMITTEE OF EXPERTS

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Portugal	31 to 76 and 77 (C 170; R 177)	77 (C 171; R 178)
Qatar	58 to 76	77
Romania	39 to 77	-
Russian Federation	37 to 76	77
Rwanda	47 to 76	77
Saint-Lucia	-	66, 67, 68, 69, 70, 71, 72, 74, 75, 76 and 77
San Marino	69 to 77	-
Sao Tome and Principe	68 to 76	77
Saudi Arabia	61 to 77	-
Senegal	44 to 76	77
Seychelles	-	63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76 and 77
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, 76 and 77
Singapore	50 to 77	-
Solomon Islands	74	70, 71, 72, 75, 76 and 77
Somalia	45 to 75	76 and 77
Spain	39 to 62, 63 (C 148; R 156, 157), 64 to 70, 71 (C 160; R 170), 72, 74 and 77	63 (C 149), 71 (C 161; R 171), 75 and 76
Sri Lanka	31 to 72	74, 75, 76 and 77
Sudan	39 to 71	72, 74, 75, 76 and 77
Suriname	61 to 64	65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76 and 77
Swaziland	60 to 76 and 77 (C 170; R 177)	77 (C 171; R 178)
Sweden	31 to 77	-

# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Switzerland	31 to 77	-
Syrian Arab Republic	31 to 64, 67, 68 and 74	65, 66, 69, 70, 71, 72, 75, 76 and 77
Tanzania, United Republic of	46 to 65, 69 to 71	66, 67, 68, 72, 74, 75, 76 and 77
Thailand	31 to 71	72, 74, 75, 76 and 77
Togo	44 to 77	-
Trinidad and Tobago	47 to 72	74, 75, 76 and 77
Tunisia	39 to 77	-
Turkey	31 to 77	-
Uganda	47 to 72	74, 75, 76 and 77
Ukraine	37 to 77	-
United Arab Emirates	58 to 77	-
United Kingdom	31 to 77	-
United States	31 to 77	-
Uruguay	31 to 75	76 and 77
Venezuela	31 to 70, 71 (C 160; R 170) and 72	71 (C 161; R 171), 74, 75, 76 and 77
Yemen	49 to 72 and 75	74, 76 and 77
Yugoslavia	31 to 75	76 and 77
Zaire	45 to 69	70, 71, 72, 74, 75, 76 and 77
Zambia	49 to 76	77
Zimbabwe	66 to 77	-

## APPENDIX II.

## Overall position of member States as at 25 March 1992

Sessions at which decisions were adopted	Number of States in which, according to information supplied by Government,			Number of States which were Members of the Organisation at the time of the session
	All the texts have been submitted	Some of these texts have been submitted	None of these texts have been submitted (including cases in which no information has been supplied by the Government)	
31 (June 1948)	58	2	-	60
32 (June 1949)	59	2	-	61
33 (June 1950)	61	- <sup>1</sup>	2	63
34 (June 1951)	62	2	-	64
35 (June 1952)	64	2	-	66
36 (June 1953)	64	-	2	66
37 (June 1954)	67	- <sup>1</sup>	2	69
38 (June 1955)	67	1	2	69
39 (June 1956)	74	-	2	76
40 (June 1957)	75	2	-	77
41 (April/May 1958)	77	1	1	79
42 (June 1958)	78	1	-	79
43 (June 1959)	78	1	1	80
44 (June 1960)	81	1	1	83
45 (June 1961)	99	2	-	101
46 (June 1962)	101	1	-	102
47 (June 1963)	107	1	-	108
48 (June/July 1964)	108	1	1	110
49 (June 1965)	112	1	1	114
50 (June 1966)	111	3	1	115
51 (June 1967)	117	-	-	117
52 (June 1968)	115	- <sup>1</sup>	3	118
53 (June 1969)	118	1	2	121
54 (June 1970)	116	3	2	121
55 (October 1970)	115	3	3	121
56 (June 1971)	119	-	2	121
58 (June 1973)	117	3	3	123
59 (June 1974)	121	1	3	125
60 (June 1975)	120	2	4	126
61 (June 1976)	122	-	9	131
62 (October 1976)	123	1	8	132
63 (June 1977)	112	5	18	135
64 (June 1978)	125	4	7	136
65 (June 1979)	124	2	13	139
66 (June 1980)	119	- <sup>1</sup>	25	144
67 (June 1981)	125	7	13	145
68 (June 1982)	125	4	21	150
69 (June 1983)	122	5	23	150
70 (June 1984)	116	- <sup>1</sup>	34	150
71 (June 1985)	110	11	29	150
72 (June 1986)	111	2	37	150
74 (Sept.-Oct. 1987)	99	2	49	150
75 (June 1988)	84	7	59	150
76 (June 1989)	75	-	75	150
77 (June 1990)	40	4	106	150

<sup>1</sup> At this session the Conference adopted one Recommendation only.









Price: 50 Swiss francs

ISBN 92-2-107965-1