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Workers with family responsibilities

International Labour Conference, 80th Session, 1993

Workers with family responsibilities

International Labour Conference
80th Session 1993

Report III (Part 4B)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

General Survey of the Reports
on the Workers with Family Responsibilities
Convention (No. 156) and Recommendation (No. 165), 1981

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

Workers with family responsibilities

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Introduction

1. In accordance with article 19 of the Constitution, the Governing Body of the ILO, at its 251st Session (November 1991) requested governments to report in 1992 on the position of their law and practice respecting the promotion of equality and treatment for workers with family responsibilities, as laid down in the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981. The reports supplied by the governments, together with those submitted in accordance with articles 22 and 35 of the ILO Constitution by States which have ratified the Convention, have enabled the Committee of Experts on the Application of Conventions and Recommendations to carry out this first general survey of the situation as regards the implementation of these instruments, both in ratifying States and in countries which have not ratified the Convention. Where appropriate, the Committee of Experts has also had occasion to refer to reports furnished by governments under articles 22 and 35 on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

ILO action in the field of equality

2. As part of its broad mandate of promoting social justice, the International Labour Organization has been concerned, since its inception, with taking measures aimed at establishing employment equity among workers. This objective has necessarily entailed the formulation of policies, programmes and more particularly, international labour standards, to redress gender inequality. While there has been constant adherence to this goal for more than 70 years, there has been an evolution in the approach taken to that end. Two predominant trends may be distinguished. From 1919 until the 1950s, an emphasis was placed on the protection of women workers, essentially because of the prevailing perception that women were more fragile both physically and socially than men, and therefore should not be permitted to engage in certain forms of employment or work at certain times, as they were more likely to be affected adversely by the dangers and exploitation still prevalent in much of the world. In this, a primary objective was to safeguard the health of women with special reference to child-bearing: minimum standards regarding maternity leave and benefits were accordingly among the first instruments adopted by the International Labour Conference. In addition, though, other Conventions and Recommendations were adopted to lay down measures of protection in areas not directly concerned with the function of women as mothers or future mothers. These prohibited the participation of all women in certain sectors or restricted their employment

during specified periods. By the beginning of the 1950s, this concern had waned and there was a greater preoccupation with promoting equality at work for women.

3. This new outlook was translated into the adoption in 1951 of the Equal Remuneration Convention (No. 100) and Recommendation (No. 90), which relate specifically to the elimination of discrimination between women and men workers in respect of remuneration. Later, in 1958, comprehensive instruments concerning equality of opportunity and treatment — the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111) — were adopted to establish the principle of non-discrimination on a number of grounds including sex, in regard to access to vocational training, access to employment and particular occupations and terms and conditions of employment. While marital status, family situation and family responsibilities are not mentioned specifically as grounds for discrimination, Article 1(b) of Convention No. 111 states that the term “discrimination” includes “such other distinction, exclusion or preference ... as may be determined by the Member concerned after consultation with representative employers’ and workers’ organizations”. Furthermore, Article 5, paragraph 2, provides that member States may determine that other special measures, designed to meet the particular requirements of persons who, for reasons such as sex, age or family responsibilities, are generally recognized to require special protection or assistance, shall not be deemed to be discrimination.

4. In 1965, the Employment (Women with Family Responsibilities) Recommendation (No. 123) was adopted in recognition of the widely held concern that “all measures to promote equal rights may prove meaningless for a vast majority of women if — as a result of their family responsibilities — they must either give up their jobs entirely, or lose any chance of advancement because they can give only a smaller part of their attention and energy to their professional work”.¹ Recommendation No. 123 enumerates in some detail, the measures that should be taken to enable women to fulfil their various responsibilities harmoniously and without being subject to discrimination. It contemplates, on the one hand, the need for such measures as child-care services and facilities, to help women cope with meeting their dual tasks at home and at work. It also recommends a series of measures designed to ensure that girls receive education, vocational guidance and vocational training free from any discrimination on the grounds of sex, as a basis for their future work lives; and that women with family responsibilities be afforded appropriate counselling, placement and training facilities to enable them to enter or re-enter employment after comparatively long absences, owing, in particular, to family responsibilities.

5. The first International Women’s Year (1975) presented the occasion to develop a more broadly based and coherent approach to the question of equality between women and men. Following a general discussion on Equality for women workers in 1975, the International Labour Conference adopted a Declaration and two resolutions which for the first time, treat together — and therefore underline the necessity of viewing as intrinsically interconnected — all of the questions, principles and measures concerning equality of

¹ General Survey of the Committee of Experts on Conventions and Recommendations relating to the Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123), Report III (Part 4B), International Labour Conference (ILC), 64th Session, Geneva, 1978, p. 1.

opportunity and treatment for women in the realm of labour.² Each of these instruments stress that the promotion of equality of opportunity and treatment between men and women should be the main objective of all ILO activities relating to women. Regarding ILO standards dealing with the protection of women at work, the Conference stated the principle which is now the basis of the standard-setting activities of the ILO in respect of women, that is, that women should "be protected from risks inherent in their employment and occupation on the same basis and with the same standards of protection as men, in the light of advances in scientific and technological knowledge".³

6. The emphasis has thus shifted from the protection of women to the promotion of their employment prospects and more lately, to an insistence that equality implies according equal opportunities and treatment to women and men in all respects including coverage by protective legislation.

7. Though these changes have been quite marked, as is shown by the revision in 1990 of the Night Work (Women) Convention (Revised), 1948 (No. 89), and the adoption in 1990 of the new Night Work Convention (No. 171) and Recommendation (No. 178), which protect both men and women, it is crucial to note that throughout this period of evolution, no derogation has ever been made from the ILO's concern with providing women with an adequate standard of maternity protection and benefits. While pregnancy, confinement and breast feeding are uniquely, biologically, a woman's province, reproduction is itself a social function which should be protected by society. This was reaffirmed in the 1975 Declaration, which recommended that all women workers be entitled to full maternity protection, in line with the relevant ILO standards, and called for special protection for women in those types of work "proved to be harmful to them from the standpoint of their social function of reproduction". Consequently, with a view to ensuring the protection of women workers and in order to secure, as far as possible, the health and well-being of the unborn and newly born child, action has been taken through seminars and the provision of technical advisory services to encourage the ratification and implementation of the provisions of the two relevant Conventions — the Maternity Protection Convention, 1919 (No. 3), and the Maternity Protection Convention (Revised), 1952 (No. 103) — and to promote acceptance of the provisions of the Maternity Protection (Agriculture) Recommendation, 1921 (No. 12) and the Maternity Protection Recommendation, 1952 (No. 95).

8. While the benefits afforded by these instruments are obviously directly applicable only to women workers, it is important to note that the International Labour Conference has also taken account of the dangers affecting the reproductive capacity of men, by making explicit the need to extend special protection to women and men for types of work proved to be harmful for them, particularly from the standpoint of their social function of reproduction.⁴

² Declaration on Equality of Opportunity and Treatment for Women Workers; resolution concerning a plan of action with a view to promoting equality of opportunity and treatment for women workers; resolution concerning equal status and equal opportunity for women and men in occupation and employment. Adopted by the ILC, 60th Session, Geneva, 1975.

³ Article 9(2) of the Declaration on Equality of Opportunity and Treatment for Women Workers, 1975.

⁴ Resolution on equal opportunities and equal treatment for men and women in employment. Adopted by the International Labour Conference, 71st Session, Geneva, 1985, para. 5(c).

9. The appreciation that equality of opportunity and treatment can be achieved only through improving general conditions of work for all workers, women and men, led the 1975 International Labour Conference to invite the Governing Body "on the basis of the reports under article 19 of the Constitution to be supplied by member States in 1977 on the Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123), to place on the agenda of the earliest possible session of the International Labour Conference the question of workers with family responsibilities, with a view to the adoption of a new instrument".⁵ During the 1975 Conference general discussion, it had been pointed out that any change in the traditional role of women should be accompanied by a change in the traditional role of men, which should be reflected in their greater participation in family life and in household duties. It was considered that Recommendation No. 123, however, perpetuated the notion that such responsibilities should fall only on women. The Governing Body, at its 198th Session (November 1975), requested the Director-General to take account of this resolution (and of the general survey on the application of Recommendation No. 123, which was due to be presented to the 64th Session of the International Labour Conference, 1978) when drawing up proposals for the agenda of future sessions of the Conference.

10. Accordingly, in reviewing the reports submitted by governments concerning the application of Recommendation No. 123, the Committee of Experts was particularly attentive to all comments bearing on the modifications which might be introduced to the Recommendation. The point most frequently made in this regard was that Recommendation No. 123 was no longer in line with present-day views on the role of women in society: it was based on the belief that women had a greater responsibility towards their families than did men and that special measures were therefore needed to assist women in meeting these responsibilities as well as those arising out of their work. Modern thinking, though, dictated that men and women should have equal responsibilities towards their children and other family obligations and consequently, that all services and arrangements developed in this respect should be available equally to men and women. It was also pointed out that this was in the interests of male workers (particularly when they carried out family responsibilities alone); and that it eliminated a possible source of discrimination against women in cases where the arrangements in question were liable to involve employers in additional costs or inconvenience so that they hesitated to employ women workers with family responsibilities.⁶

11. In these circumstances, the Governing Body decided, at its 208th (November 1978) Session, to include in the agenda of the 66th (1980) Session of the Conference, an item entitled "Equal opportunities and equal treatment for men and women workers: Workers with family responsibilities", with a view to the adoption of an instrument or instruments. In 1981, the Conference adopted the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165).

12. Since the adoption of Convention No. 156 and Recommendation No. 165, emphasis has consistently been placed, in resolutions adopted by the International Labour

⁵ Resolution concerning equal status and equal opportunity for women and men in occupation and employment, 1975, para. 2(b), *op. cit.*

⁶ *op. cit.*, paras. 198 and 199.

Conference and in the activities of the International Labour Office, on equality for workers with family responsibilities as a priority area for action. The Office has carried out a number of promotional activities, including the organization of meetings of experts and of seminars in different regions, designed to stimulate a better understanding of the importance of including the principles of these standards in national efforts to promote equality of opportunity and treatment for men and women in employment. Technical advisory services have also been provided to ILO constituents with a view to encouraging them to develop measures to implement the major requirements of the instruments. These efforts have been strengthened by the collection and dissemination of material, as for example, through the publication of a special issue of the *Conditions of Work Digest* on child care. A study is also under way of arrangements in selected industrialized countries that enable workers to reconcile employment with the provision of care to elderly family members. Among promotional measures to be taken in the forthcoming biennium 1994-95, the Office intends to prepare a publication containing illustrations of the enterprise-level benefits, with an emphasis on comprehensive, dynamic packages of benefits which permit individualized responses to the many dimensions of employees' family needs.

Activities of the United Nations and other organizations

13. A number of United Nations instruments emphasize the need for measures to be taken in a way consistent with the spirit of the ILO Convention No. 156 and Recommendation No. 165. Most notable is the UN Convention on the Elimination of All Forms of Discrimination against Women, which was adopted in 1979 and came into force in 1981. The Convention calls for the adoption of measures to ensure "... the recognition of the common responsibility of men and women in the upbringing and development of their children ..." (Article 5(b)), and requires States Parties to "encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities" (Article 11.2(c)).

14. The European Community has also placed emphasis on the development of measures to enable women and men to reconcile their occupational and family obligations. A 1976 Directive of the Council of Ministers of the European Community⁷ on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions provides that "... the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status". A proposal for a Council Directive on parental leave and leave for family reasons⁸ which the Council has been unable to approve, was presented in the context of the Community's first action programme on equal opportunities (1982-85). One of the key issues to be addressed by the Commission of the European Communities under its Third Action Programme on Equal Opportunities (1991-1995) is the integration of women in the labour force. The implementation and development of measures to improve

⁷ Council Directive of 9 Feb. 1976 (76/207/EEC).

⁸ COM (83) 686 final submitted by the Commission to the Council on 24 Nov. 1983.

the reconciliation between work and family responsibilities for women and men has been defined as a priority objective in this regard. The importance attached by the European Community to the principles contained in Convention No. 156 and Recommendation No. 165 is further reflected in the Community Charter of the Fundamental Social Rights of Workers. The Charter, adopted by the Heads of State or Governments of 11 Member States of the European Community on 9 December 1989, lays down the broad principles on which European labour law should be modelled. The instrument is based on texts such as the Social Charter of the Council of Europe and international labour Conventions. Paragraph 16 of the Charter, which relates to equal treatment for men and women, provides that measures should be "developed enabling men and women to reconcile their occupational and family obligations".

Contents of the Convention and the Recommendation

15. The Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165) apply to men and women with responsibilities in relation to their dependent children and to other members of their immediate family who clearly need their care and support. They cover all branches of economic activity and all categories of workers. Their provisions may be applied by stages, if necessary, provided that such measures of implementation as are taken shall apply in any case to all the workers with responsibilities in relation to their dependent children.

16. States which have ratified the Convention undertake to make it an aim of national policy to enable persons with family responsibilities to exercise their right to obtain or engage in employment without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

17. The Convention provides that all measures compatible with national conditions and possibilities shall be taken: to enable workers with family responsibilities to exercise their right to free choice of employment; to take account of their needs in terms and conditions of employment and in social security, as well as in community planning; to develop or promote community services, public or private, such as child-care and family services and facilities; and, through vocational guidance and training, to enable workers with family responsibilities to become and remain integrated in the labour force and to re-enter the labour force after an absence due to these responsibilities. Appropriate measures shall also be taken to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities. Family responsibilities, as such, shall not constitute a valid reason for termination of employment.

18. The Recommendation spells out concrete measures that are suggested in the framework of the national policy called for by the Convention to avoid discrimination against workers with family responsibilities and to enable them to combine work and family responsibilities. These measures relate to training and employment; terms and conditions of employment; child-care and family services and facilities; social security; and help in the exercise of family responsibilities. The Recommendation supersedes the Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123).

Available information and arrangement of the survey

19. Convention No. 156 has been ratified by 19 member States. Through the reports on the Convention submitted by both ratifying and non-ratifying States and the reports on the Recommendation, information has been made available concerning 71 States and 11 Territories. Appendix II contains a table showing the reports received. The reports from certain countries contained detailed information on the measures being taken or envisaged to implement the provisions of the Convention and the Recommendation and many examples quoted in this survey have therefore been drawn from these reports. The Committee wishes to emphasize, though, that particular examples have been cited to illustrate the different approaches that may be taken to apply various provisions of the instruments. For this reason, the report does not provide an exhaustive list of all the measures taken in different countries that give effect to the Convention and Recommendation.

20. The Committee has also examined the comments made by a number of employers' and workers' organizations on their government's reports. Where appropriate, it has also had occasion to refer to reports furnished by governments, under articles 22 and 35 of the ILO Constitution, on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). In addition, in accordance with its usual practice, the Committee has, in some cases, sought to supplement the information available with research into legislation, official documents and other appropriate sources.

21. In the following chapters, the Committee has outlined the main requirements of the instruments (the texts of which are set out in Appendix I), including their scope of application and the definitions used, on the basis of the studies that preceded them or from the discussions that took place during the Conference sessions leading to their adoption (Chapter I), before examining the means by which member States have formulated, implemented and evaluated national policies to give effect to their provisions (Chapter II), the measures taken in the fields of training and employment to assure equality for workers with family responsibilities (Chapter III), the adaptation of terms and conditions of employment, including social security, to enable workers to reconcile their work and family responsibilities (Chapter IV), and specific provisions regarding care for children and other family members (Chapter V). The last chapter of the survey (Chapter VI) is devoted to a discussion of the prospects for further ratification of the Convention. A final section contains the general conclusions and observations the Committee has thought it appropriate to make in order to encourage the understanding and therefore the acceptance of the objectives of these standards.

CHAPTER I

Purposes, definitions and scope

The dual purpose of the instruments

22. The Workers with Family Responsibilities Convention, 1981 (No. 156), and Recommendation (No. 165), were intended from their inception to promote equality of opportunity and treatment in employment for men and women workers with family responsibilities as well as between workers with family responsibilities and those without such responsibilities. In broad terms, the instruments seek to encourage member States to take all appropriate measures to realize these goals in the context of their various national capacities and circumstances, rather than to prescribe a precise combination of measures. It is evident from the preparatory work leading to the adoption of these standards that there was an intention to allow ratifying States the broadest possible flexibility in meeting these objectives.

23. The full title of both instruments is: "Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities". During the preparation of the 1981 instruments, a number of member States questioned the dual nature of this title, expressing concern that it was ambiguous and did not clearly state the intention of the instruments.¹ It was considered that the title could give rise to a variety of interpretations: some provisions of the instruments dealt with the question of equality between male and female workers with family responsibilities, while others dealt with the question of equality between workers with and without such responsibilities.² It was also pointed out that the adoption of a series of international labour standards on different aspects of the issue of equality of opportunity and treatment might create confusion and reduce the chances for ratification.³

¹ See ILO: *Equal opportunities and equal treatment for men and women workers: Workers with family responsibilities*, Report V(2), ILC, 67th Session, Geneva, 1981, in particular, remarks from *Belgium*, p. 4, *Sweden*, p. 7, and *United Kingdom*, p. 8.

² ILO: Report V(2), ILC, 67th Session, Geneva, 1981, p. 7, see remarks by *Sweden*.

³ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, pp. 5-6, see remarks by *New Zealand*.

24. Underlying this concern with the wording of the title of the instruments was a difference of views among member States over their objectives. Some governments⁴ considered that equality of opportunity and treatment of men and women workers ought to be the major thrust of the instruments, while others,⁵ considered their goal was to assist workers with family responsibilities rather than to act as instruments to promote equality between the sexes.

25. In the final adoption of the instruments by the 67th Session of the International Labour Conference it was agreed that the Convention and Recommendation had in fact the dual objective of creating equality of opportunity and treatment in working life between men and women with family responsibilities, on the one hand, and between men and women with such responsibilities and workers without such responsibilities, on the other. It was considered that full equality of opportunity and treatment for men and women could not be achieved without broader social changes, including a more equitable sharing of family responsibilities, and that the excessive burden of family and household tasks still borne by women workers constituted one of the most important reasons for their continuing inequality in employment and occupation. Therefore, it was agreed to insert an additional paragraph in the text of the Preamble of the Convention and Recommendation, as follows: "Recognizing the need to create effective equality of opportunity and treatment as between men and women workers with family responsibilities and between such workers and other workers, ...".

26. The Preamble to the Convention and Recommendation also emphasizes the concern, as formulated in the 14th paragraph of the Preamble of the United Nations Convention on the Elimination of Discrimination against Women, 1979, that States Parties are "aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women, ...". The aim of the instruments was therefore, in the view of the member States, not to pursue a general "family policy",⁶ but rather to deal with the issue of family responsibilities in so far as the burden of such responsibilities borne by workers could create or maintain existing inequalities between the sexes. In this regard, it was recalled that discrimination on the grounds of family responsibilities or marital status was frequently judged to be a form of discrimination based on sex.⁷

27. The Preamble to the Convention and Recommendation also recalls that many of the problems facing all workers are aggravated in the case of workers with family responsibilities, and recognizes the need to improve the conditions of the latter both by measures responding to their special needs and by measures designed to improve the conditions of workers in general. This reflects another major concern during the

⁴ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, pp. 4-7, for comments by *Denmark, Finland, Norway and Sweden*, and Report V(2), ILC, 67th Session, Geneva, 1981, pp. 6-7, for comments by *Norway and Sweden*.

⁵ ILO: Report V(2), ILC, 67th Session, Geneva, 1981, p. 8, see remarks by the *United Kingdom*.

⁶ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, p. 4, see remarks by *Denmark*.

⁷ See the Directive of 9 Feb. 1976 by the Council of the European Communities "on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions," (706/207/EEC).

preparatory work that measures taken on behalf of workers with family responsibilities should not entail discriminatory consequences for other members of the workforce.⁸ It was considered that a purposefully broad definition of workers with family responsibilities would help to avoid this pitfall, in so far as the instrument could in fact cover all workers, as any worker might, at some point, find herself or himself having to assume family responsibilities.⁹ In the preliminary discussions, emphasis was placed on measures that would be of special benefit for workers with family responsibilities — such as reductions in working hours — which would also be of general benefit to all workers, although no example of such measures was retained in the final text.

28. Article 1, paragraphs 1 and 2, of the Convention include an identical clause limiting coverage of the instruments to men and women workers with family responsibilities: “where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity”. This reflects a desire not only to limit the focus of the instrument with regard to the profile of the workers concerned but also to introduce another precautionary measure designed to prevent making workers with family responsibilities a privileged group in relation to other workers, thereby giving rise to discrimination against workers without family responsibilities.

29. This point also has a bearing on the Convention’s application to both men and women workers. Where inequalities exist between men and women workers regarding their family responsibilities — a phenomenon that appears to persist almost everywhere in the world — and where that situation results in restricting the economic activity of women workers only, it would be legitimate to aim measures at women, provided that men are not formally barred from access to such measures should they find themselves in the same circumstances.

30. Article 3 states that member States shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination. In addition to discrimination in employment and in preparation for employment, the Convention also addresses the issue of discrimination on the ground of family responsibilities in termination of employment (Article 8). The Recommendation suggests more broadly that marital status, family situation or family responsibilities should not, as such, constitute valid reasons for refusal or termination of employment (Paragraph 16). These provisions provoked extensive debate during the preliminary discussions. Some members of the Conference Committee considered that the question of termination was linked more to discrimination on the ground of sex, than to discrimination on the basis of family responsibilities. Since family responsibilities devolved largely upon women, they were more vulnerable than men to dismissal upon marriage or when children arrived. Discrimination therefore arose not principally because of family responsibilities but for reasons of sex. Accordingly, it was proposed that the prohibition against termination on the basis of family responsibilities should be qualified by the words “if this constitutes direct or indirect discrimination on grounds of sex”. Other members maintained, however, that such a qualification would have the effect of allowing undertakings to dismiss workers

⁸ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, pp. 18 and 20, see remarks by *Austria* and *Kuwait*.

⁹ See remarks by the *Federal Republic of Germany*, *ibid.*, p. 20.

because of their marital status, family situation or family responsibilities so long as they did not discriminate between men and women.¹⁰

31. Consideration was also given to including in the Convention a provision forbidding the refusal of employment to a worker because of his or her family responsibilities. In the event, it was decided that such a provision would be difficult to implement in many countries without the extensive revision of existing legislation. Consequently, the Convention deals only with termination of employment and the question of refusal of employment was included in Paragraph 16 of the Recommendation.

Definitions

Family responsibilities, family situation and marital status

32. During the preparatory work on the 1981 standards, it was noted that "family responsibilities", "family situation" and "marital status" were not explicitly included among the grounds on which discrimination was forbidden under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), under Article 1, paragraph 1(a). It was proposed that "family situation" and "marital status" should be included alongside "family responsibilities" as grounds for discrimination forbidden under Convention No. 156, in particular in order to cover the variety of family situations in different countries and to recall the wording of previous international instruments on the subject.¹¹

33. While this wording was not retained in the final text of the Convention, a number of member States have included "family situation" and "marital status" alongside "family responsibilities" in the forms of discrimination forbidden under their national legislation or practices. Nearly all national legislation under review forbids discrimination based on sex. In many countries, "marital status" (sometimes more specifically a change in marital status) is also a proscribed ground of discrimination (for example, *Australia, Canada* (in the federal jurisdiction and in the provinces and territories apart from Quebec), *Ireland, Israel, New Zealand, the Philippines, Togo* and the *United Kingdom*). A number of countries, particularly those with Latin cultural and legal traditions, use the term "civil status" or "civil situation" ("état civil" or "estado civil"), which in most cases can be considered as equivalent to marital status (as in *Brazil, Canada* (Province of Quebec), *Ecuador, France* and *Spain*). Discrimination based on pregnancy or maternity-related conditions is also specifically mentioned in several countries (*Belarus, Bermuda, Colombia, Portugal* and the *United States*). Some governments have stated that legislation prohibiting discrimination on the basis of sex or marital status also covers discrimination on the basis of family responsibilities. However, in many cases this intention appears not to have been tested by the relevant courts or tribunals in the country. In some countries, it would seem that where indirect discrimination on these grounds is proscribed expressly, the legislators have sought to enable a worker — and more particularly a woman — to

¹⁰ *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, pp. 28/14-15, paras. 158-159.

¹¹ *Record of Proceedings*, ILC, 66th Session, Geneva, 1980, p. 32/7, paras. 59-63.

seek redress for discriminatory consequences arising out of her actual or presumed assumption of family responsibilities. Since the information available does not provide any examples of such cases, the Committee is unable to ascertain the effectiveness of these provisions for the application of the Convention. This variety of definitions of discrimination would seem to confirm the broad scope for application of the Convention in keeping with differing national cultures and conditions.

34. The application of the Convention in respect of the goal of equality for men and women workers is tempered by the definition of discrimination given in Article 3, paragraph 2, of the Convention, which refers to the definition established in Articles 1¹² and 5 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and is of particular relevance to the question of positive measures taken to promote the equality of women workers. In particular, Convention No. 111, Article 5(1) states: "Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination," and Article 5(2) continues: "Any Member may ... 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 recognized to require special protection or assistance, shall not be deemed to be discrimination".

35. This qualification of the definition of discrimination is of crucial importance to the application of the instruments examined here, particularly as the Convention's accompanying Recommendation No. 165 supersedes the previous Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123) (see the Introduction, for the background to this decision). Whether or not it would be possible to retain programmes aimed specifically at women workers with family responsibilities was one of the key concerns of member States in the deliberations leading up to the adoption of the instruments. Many member States, particularly those in the process of development,¹³ felt that they could continue to implement programmes aimed at women workers but would not yet be able to initiate more ambitious measures covering both women and men, while other member States argued that the basic premise of Recommendation No. 123 — that women still bear the main responsibility for the family — was now outmoded and that it would not be advisable for there to be two international instruments on a similar theme but based on such different premises.¹⁴ In fact this was specifically stated in Part II, Paragraph 8(2) of the Recommendation: "During a transitional period special measures aimed at achieving effective equality between men and women workers should not be

¹² Article 1, paragraph 1(a), of Convention No. 111 states "For the purpose of this Convention the term 'discrimination' includes any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;".

¹³ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, pp. 10-11, see remarks by the *German Democratic Republic, India, Malaysia and Mexico*.

¹⁴ See remarks by *New Zealand, the Philippines and Spain*, *ibid*.

regarded as discriminatory".¹⁵ Examples of such measures are covered below in the discussion of the details of national programmes. None the less, whether or not any special measures aimed primarily at women workers continue to be applied for the time being, the aim of national policies under the Convention is clearly to promote full coverage of both men and women workers in all programmes concerning workers with family responsibilities.¹⁶

Children

36. Article 1, paragraph 3, states that for the purposes of the Convention, the terms "dependent child" and "other member of the immediate family who clearly needs care or support" mean persons defined as such in each country by one of the means referred to in Article 9 of this Convention, that is "by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions". In keeping with the concern to promote the development of a variety of measures to give effect to the Convention among member States and to provide sufficient flexibility to account for different national circumstances, it was agreed during the discussions leading up to the adoption of the final instrument, that the wide variation in the definition of family and the nature of the individual's duties towards it in different societies¹⁷ required that this definition be left as broad as possible in the text of the Convention, so that individual governments could determine its content.

37. Article 1, paragraph 1, states that the Convention applies to men and women workers with responsibilities in relation to their dependent children. This provision of the Convention may not be applied in stages, as is allowed for other provisions, under Article 10. The coverage of workers "with responsibilities in relation to other members of their immediate family who clearly need their care or support ...", provided for in Article 1, paragraph 2, may, however, be extended more gradually. Again, this decision was based on extensive debate in the course of the deliberations on the instruments. The idea that the broadest possible definition of family responsibilities should be provided in order to respond to the variety of conditions in member States (see above) met with resistance from a number of governments, who considered that too sweeping a definition would be inappropriate and would hinder ratification of the Convention,¹⁸ while other governments proposed an even broader definition than the one originally proposed, to

¹⁵ See commentary by the Legal Adviser during the second discussion of the Committee on Workers with Family Responsibilities, *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/6, paras. 44-45. While this opinion was given before the decision to supersede Recommendation No. 123 was taken by the Conference Committee (*ibid.*, paras. 419-423), its basic argument regarding the definition of discrimination in relation to special measures of protection under Convention No. 111 remains valid.

¹⁶ See also opinion of the Legal Adviser, *ibid.*, p. 28/8, para. 72, in response to a request for clarification from the Government of the *United Kingdom*.

¹⁷ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, p. 24, see comment by the *Netherlands*.

¹⁸ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, p. 25, see remarks by *Switzerland* and the *United Kingdom*.

include family members not actually living in the same household or other persons requiring care not related to the worker.¹⁹

38. It was unanimously agreed, however, that it was reasonable to require the definition of family responsibilities to include those responsibilities with respect to dependent children. It was for this reason that coverage of dependent children was made mandatory in the final text of the Convention, with no provision for application by stages. Within the broad definition of dependent children, there is none the less considerable scope for specific national regulations regarding the child's age, legal relationship to the worker, residence, and other characteristics, bearing in mind that the concept of "dependence" should signify reliance on the worker for support and sustenance, and physical and mental well-being.²⁰ It was determined that dependence was not to be restricted to economic dependence only, in order to take into account needs of a different nature, such as those of the handicapped or disabled.

39. In keeping with this concept of dependence, most member States have used their standard age limit for minors or children for the purposes of the definition of dependent children under the Convention. These definitions, established in national legislation on families, social security, education and related matters, generally cover children from birth up to an age ranging from 15 years (for example, *Cyprus* and *Mauritius*) to 21 years (for example, *Ecuador* and *Indonesia*), with most set at 18 years (for example, *Belarus*, *New Zealand*, *Syrian Arab Republic* and *Venezuela*) or 19 years (for example, *Canada*, federal standards), or at the age at which obligatory instruction ends (for example, *United Kingdom* (*Saint Helena*) and *Switzerland*). This coverage is frequently lengthened in the case of children who remain in full-time education, apprenticeship or other vocational training, or who carry out military service, until ages ranging from 19 (for example, the *United Kingdom*) to 25 (for example, for male children in *Cyprus*; for females, this provision lasts only until the age of 23, apparently because of the additional obligatory two-year military service for men). The extension of the definition of dependence in such cases would appear to be reasonable in so far as children are unable to support themselves as long as they are engaged in full-time studies, apprenticeship or other training. In keeping with this reasoning, *Belarus* specifically exempts students receiving grants from dependent status, presumably because they are no longer considered to be economically dependent. Some countries (for example, *Ecuador* and *Syrian Arab Republic*) extend the definition of dependence to include all unmarried, divorced or widowed daughters, if they are unable to support themselves. Finally, most member States extend the age limit for dependent children in the case of severe illness or disability. Indeed, in such cases there may be no upper age limit on the child's dependence (for example, *Burundi*, *Cuba*, *Cyprus*, *Ecuador*, *Mauritius*).

40. On the question of the legal relationship of the dependent child to the worker, there is considerable variation in coverage in the different member States. All countries which have provided information on this matter cover children born to a husband and wife, while most also cover adopted children or those born to one of the partners in a previous marriage (for example, *Bangladesh* and *Portugal*). Children of other family members,

¹⁹ See remarks by the *Netherlands* and *New Zealand*, *ibid.*, p. 24.

²⁰ See *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/9, paras. 83-84.

including grandchildren, may also be covered if the natural parents are deceased or unable to care for them (for example, *Bolivia, China and Mexico*). A large number of countries further include provisions for children born out of wedlock but formally recognized according to an accepted national practice (for example, *France, Rwanda, Switzerland, United Kingdom (Montserrat)*) or without specification of such legal recognition (for example, *Burundi, United Kingdom (Hong Kong)*). A smaller number of countries cover children who do not fit either of these categories but who are legally resident with the worker (*Poland, Tunisia*). Indeed, these may even include children who are not related to the workers but are being brought up by them (*Canada (Province of Ontario), the Netherlands*).

41. As can be seen from the above, the definition of the degree of dependence of the child on the worker is frequently linked to the legal residence of the child. This is a problem not only when the child is not related to the worker, but also when the parents are divorced or not living together. National regulations on such cases vary considerably, as the degree of legal responsibility for the upbringing of a child under such conditions depends to a great extent on national traditions and legal systems. In many countries, the parent who does not reside with the child has normally only a financial obligation to contribute to the child's support, unless the other parent becomes incapacitated. While the child may still be considered a dependant for some purposes (in particular with regard to social security and taxation), it is unlikely in these circumstances that the responsibility involved will restrict the worker's participation in economic activity or give rise to discrimination, an essential qualifying condition under the Convention. In some other countries, however, the responsibility for children not residing in the same household is more extensive, so that these children may still be considered as dependants in the spirit of the Convention.²¹

Other members of the immediate family

42. Article 1, paragraph 2, provides that the provisions of the Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support. The question of the coverage of other family members was one of the most controversial in the deliberations of the Committee in drafting the Convention. That other members of the family besides dependent children should be covered at all was by no means agreed to initially by all members of the Committee, and many questioned the feasibility of extending coverage to a category of dependants to which it would be impossible to give a common, concise definition.²² This widespread concern led to the separation of coverage of other family members needing care or support from that of dependent children and to the possibility of applying this provision of the Convention by stages.²³ Furthermore, the precise definition of the nature of the family relationships covered and the extent of care and

²¹ In the *United Kingdom (Hong Kong)*, for example, for public assistance purposes the "immediate family" extends to children "whether or not under the same roof", unless there is considered to be a "permanent separation" of the family.

²² ILO: Report V(2), ILC, 67th Session, Geneva, 1981, pp. 15-17.

²³ *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, pp. 28/8-9, para. 75.

support required was left to the individual member States (see above). However, the final wording of the relevant text revealed the desire of the Conference to restrict this provision of the Convention, as much as possible, to the neediest cases where the amount of care given by the worker would have a serious impact on her or his ability to participate in economic activity.²⁴

43. Concerning the coverage of this provision of the Convention, the most important variables are the definition of the family relationships covered and the nature of the care required. Most respondents include the spouse and parents or parents-in-law of the worker, as well as grandparents and grandparents-in-law (for example, *Bangladesh, China, Cuba, Islamic Republic of Iran*). Siblings and siblings-in-law are often covered, particularly when they are minors or are disabled or unable to support themselves for some other imperative reason (for example, *Bolivia, Poland*). Other relations, such as cousins, uncles and aunts, and relations of the spouse, are less frequently covered, unless they can be seen as forming part of the same family unit as the worker or have no other relations who can offer care or support (for example, *Bangladesh*, several provinces of *Canada, China, Cuba, Mexico*; in the *United Kingdom (Hong Kong)*, these are considered dependants only if forming part of the same household, unlike dependent children). It can be supposed that family relationships in this context are those based on formal legal ties, particularly where relations of the spouse are concerned, but this is specified in only a few cases (for example, *Bolivia*).

44. As with dependent children, while residence with the worker is not a requirement for the coverage of the family member under the Convention, it is frequently part of the definition of the closeness of the family relationship in national legislation and practice, a particularly significant point where the family relationship is not based on formal legal ties. In fact, in some countries (the *Netherlands* and certain provinces of *Canada*) it is not required that the person clearly in need of care and support be related to the worker, as long as he or she can be defined as having a close bond with the worker that can be considered familial in nature. In the *Canadian* Province of British Columbia, this is defined as having a bond of "mutual affection and support". Definitions are similarly broad in the *United Kingdom* and the *United States*, where it is the economic dependence on the worker or the actual care given that determine the nature of the relationship.

45. As mentioned above, several countries have established very generous definitions of other family members in need of care or support. Not all governments, however, have reported on the effect given to this provision of Article 1, paragraph 2, of the Convention. Among member States that have ratified the Convention, only *Norway* and *Sweden* have specifically made use of the provision to apply the Convention in stages regarding coverage of these family members (coverage has subsequently been extended to cover many of these cases in both countries, which were among the first to ratify the Convention), but almost all have referred in their reports only (*Niger, Venezuela*) or primarily (*Finland* uses precisely this term) to measures concerning responsibilities toward

²⁴ Proposals to delete the word "clearly" from this definition were rejected by the Conference for precisely this reason, *ibid.*, p. 28/9, para. 87.

dependent children. Only a few, in particular *Portugal* and *San Marino*, refer at any length to measures taken with regard to other family members, such as the elderly.

Coverage of categories of workers and branches of activity

46. Article 2 of the Convention states: "This Convention applies to all branches of economic activity and all categories of workers". Alongside the definition of the nature of the family relationships covered by the Convention, the scope of application of the instruments was a very important theme of discussion in the preliminary deliberations of the Committee. The phrasing of the Convention, aiming to protect men and women workers from restrictions on "... their possibilities of preparing for, entering, participating in or advancing in economic activity" (Article 1, paragraph 1) was intended to provide full coverage not only to those currently in employment, but also to those seeking to enter or re-enter the workforce or to undergo training for employment.²⁵ Further, it was intended that all workers should be covered, whether in full-time, part-time, temporary or other forms of employment, and whether they are in waged or non-waged employment. This point was of particular significance to many member States, due to the large number of workers in part-time and precarious forms of employment or self-employed, particularly in the developing countries.²⁶

47. It was also agreed in the preparatory discussions that the Convention should cover all workers living in a particular country, whether or not they were nationals of that country.²⁷ This was in line with the concern expressed by participants in the proceedings that migrant workers, in particular, should be covered by the Convention.²⁸

48. In line with previous ILO instruments, it was further considered that the term "economic activity" would cover all forms of occupational activity, whether in the private or public sectors and with or without a profit motive.²⁹

49. In the preparatory work, grave concern was expressed that the provisions of the Convention could not readily be applied to all sectors of activity, in particular agriculture and the informal sector. It was pointed out by some constituents that these sectors were already difficult to regulate and were characterized by extreme poverty and instability of employment, particularly in the developing countries.³⁰ Others considered that fairness and universality of application required that the Convention cover all forms of employment and sectors of activity, but agreed that this provision, like those mentioned

²⁵ See *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/8, para. 73.

²⁶ *Record of Proceedings*, ILC, 1981, p. 28/10, para. 103. According to the ILO Legal Adviser, the term "employment" in ILO instruments refer to both wage and non wage-earning workers, *ibid.*, para. 105.

²⁷ See response to a request for clarification by the Government of *Finland*, *Record of Proceedings*, ILC, 1981, p. 28/10, para. 90.

²⁸ See remarks by the Governments of *Turkey* et al., *ibid.*, para. 89.

²⁹ See reply to comment of the Government of *Belgium*, ILO: Report V(2), ILC, 67th Session, Geneva, 1981, pp. 15-17, and *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/10, para. 93.

³⁰ See remarks by *Bangladesh* and *Pakistan*, Report V(2), ILC, 67th Session, Geneva, 1981, p. 18.

above regarding other family members in need of care, could be applied by stages when necessary, and in keeping with national conditions.

50. Among those countries that have ratified the Convention, most have applied it to all branches of activity, but several have made express use of the facility afforded by Article 10 of the Convention to extend application in stages to particular categories of workers, or have impliedly taken advantage of this possibility. For example, in *Norway*, legislation providing, inter alia, for the right to take leave in order to care for children and the right to reduced working hours in view of family responsibilities did not apply at the time of ratification to domestic workers or to workers engaged in agriculture and civil aviation, though its application was extended subsequently in respect of agriculture and civil aviation. In addition, certain rights relevant to the application of the Convention were extended, subsequent to ratification, to persons employed on board Norwegian ships. In its first report on the application of Convention No. 156, the Government of *Greece*, which ratified the Convention in 1988, indicated that the provisions of the Convention were applied through legislation enacted in 1984. This legislation exempts from its coverage seafarers and several other groups of workers below specified numbers in the private and public sectors.

51. Reservations have also been expressed both by States that have ratified and by some that have not ratified the Convention regarding full coverage of certain categories of workers, particularly with reference to part-time workers. In this regard, the Committee of Experts would consider that in some cases, different treatment of limited categories of part-time workers would not be contrary to the spirit of the Convention.

Application of the Convention in federal States

52. The application of the Convention by federal States was another important consideration for a number of member States in the ratification and application of the Convention. As in other areas, the Convention provides great latitude for application by federal States. In this regard, the Committee of Experts points out that the provisions of Article 10 of the Convention would not necessarily present an obstacle to ratification by federal States, provided that the Convention could be applied immediately throughout the country to sectors under the federal jurisdiction, such as the federal public service, and if it was considered probable that the initial application of the Convention to a given sector of activity in only part of the country would lead to its application to the rest of the country within a reasonable period.³¹

³¹ While the reports from some federal States, including *Belgium* and *Canada*, refer to the need to obtain the agreement of their provinces or regions in order to ratify the Convention, they make no reference to the possibility of applying its provisions progressively throughout the country by region or province.

The role of employers' and workers' organizations

53. Article 11 provides that employers' and workers' organizations shall have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of the Convention. The precise meaning of this last substantive provision of the Convention also gave rise to discussion among member States during the elaboration of the instruments. As with many of the other provisions examined above, the main concern of the Conference in adopting the final texts of the instruments was to assure flexibility of application in keeping with national conditions and circumstances. Systems of labour relations and the role of organizations of employers and workers vary considerably among member States. For this reason, the use of the term "the right to participate" was intended to encourage the full participation of such organizations, rather than to impose a particular form of participation. The Committee of Experts points out that there is no actual requirement for governments to obtain the agreement of employers' and workers' organizations to the measures designed to give effect to the Convention. It further considers that the form and level of participation might reasonably vary according to the nature of the measures concerned — extending from consultation in the preparation of legislative measures through to direct action by the employers' and workers' organizations in the provision, for example, of child-care facilities. On this last point, many member States have reported that employers' and workers' organizations have played a considerable role in the planning, funding and supervision of such facilities.

CHAPTER II

National policies

Requirements of the instruments

54. Article 3, paragraph 1, of the Convention provides that with a view to creating effective equality of opportunity and treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities. The introductory reference to equality of opportunity and treatment for men and women workers was added to indicate that the measures provided for in Article 3 belong in the context of the broader issue of gender equality.¹

55. According to Article 3, paragraph 2, the term "discrimination" in paragraph 1 means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). (Paragraph 8(1) of the Recommendation reproduces this provision.) Thus, national policies adopted pursuant to Article 3 should aim at eliminating any distinction, exclusion or preference made on the basis of family responsibilities, which has the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation and which is not based on the inherent requirements of a particular job. (Article 1, paragraphs 1 and 2, of Convention No. 111.) Paragraph 7 of the Recommendation goes further in suggesting that measures should be adopted and applied with a view to preventing direct or indirect discrimination on the basis of marital status or family responsibilities. The reference to Article 5 of Convention No. 111 means that special measures of protection or assistance which are designed to meet the particular requirements of persons with family responsibilities shall not be deemed to be discrimination. Paragraph 8(2) of the Recommendation provides more specifically that during a transitional period, special measures aimed at achieving effective equality between men and women workers should not be regarded as discriminatory. Though the reference to Article 5, paragraph 2, of Convention No. 111 already authorized such measures, it was nevertheless considered that it would be useful to include Paragraph 8(2), especially for developing countries

¹ *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/10, para. 97.

where such transitional measures may be necessary. Finally on this point, according to the preparatory work, the term "discrimination" was used in these provisions in a context comparing those persons covered by Article 1 of Convention No. 156 — that is, men and women with family responsibilities — and other workers.²

56. It was also stressed in the discussions leading to the adoption of Convention No. 156 and Recommendation No. 165 that a national policy formulated under Article 3 should apply equally to wage-earning and non-wage-earning workers. To limit the substantive provisions of the Convention to wage-earners alone would, it was pointed out, exclude the many other workers who also had family responsibilities and particularly the self-employed, who constitute the bulk of the active population in most developing countries.³

57. While Article 3 indicates the goal of a ratifying State's policy, it does not lay down the specific means by which a national policy should be formulated or pursued. This is consistent with the approach taken in other ILO instruments which, though precise in their objectives, allow application by a broad range of action. Article 9 of the Convention provides that Article 3 may be applied in any appropriate manner consistent with national practice, account being taken of national conditions. This means that while the national policy need not take a prescribed form, such as statutory regulation for example, there must obviously be evidence of a commitment to this policy aim.

58. As noted above, the Convention and Recommendation place the matter of equality of opportunity for workers with family responsibilities within the wider framework of measures to promote equality between the sexes. It would therefore appear reasonable to hope that the principles and objectives to be pursued for the benefit of workers with family responsibilities would, as far as possible, form part of the relevant national policy concerning equality of opportunity and treatment for men and women workers. In those countries bound by the provisions of Convention No. 111, it would be appropriate to include such principles in the national policy declared and pursued under Article 2 of that Convention. In this connection, the Committee refers to its 1988 General Survey on Equality in Employment and Occupation where it stated that a declaration of policy may result from constitutional norms or from legal provisions, or be expressed in a declaration of government policy submitted to Parliament or another appropriate body, or in any other manner consistent with national practice.⁴

59. The national policy must, in order to meet the objectives of the Convention, be broad enough to encompass the measures and requirements set out in Articles 4, 5, 6, 7 and 8 of the instrument. That is to say, the content of the national policy should draw its inspiration from the principles of the Convention: it is essential, therefore, that the policy be designed not only to eliminate all discrimination against workers with family responsibilities in law and practice, but that active measures should be taken to promote

² *ibid.*, para. 46.

³ *ibid.*, paras. 103 to 106.

⁴ Equality in Employment and Occupation, General Survey of the Reports on the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958. Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4B), ILC, 75th Session, Geneva, 1988, para. 160.

the principle of equality of opportunity and treatment for workers with family responsibilities in all areas of employment and occupation. In this respect, it was pointed out in the preparatory work that the wording "to enable" in Article 3 was tantamount to calling for the creation of the necessary conditions to ensure that the exercise of family responsibilities is, to the greatest possible extent, compatible with the exercise of employment responsibilities.⁵ The Recommendation suggests that all measures compatible with national conditions and possibilities should be taken so as to enable workers with family responsibilities to exercise their rights to vocational training and to free choice of employment; to take account of their needs in terms and conditions of employment and in social security; and to develop or promote child-care, family and other community services, public or private, responding to their needs. (Paragraph 9 of the Recommendation.)

Objectives of national policies

60. From the information available in the reports, it would appear that relatively few governments have yet adopted and implemented an explicit national policy concerning men and women workers with family responsibilities in line with the Convention, either through having given legal expression to the concept in national provisions or through incorporating the aim of the Convention specifically into government policy — and by subsequently taking measures to ensure implementation of the policy in all relevant areas.

61. Most governments have referred in their reports to two main types of measures: first and foremost, constitutional, legal and administrative provisions designed to eliminate all forms of discrimination on the basis of sex in employment and occupation and, second, specific measures to guarantee women protection and employment rights during pregnancy and for a specified time after the birth of a child. A number of governments have stated that because no distinction is made in law and practice concerning workers with family responsibilities, national practice is consistent with the provisions of the Convention and Recommendation. In these cases, and particularly in the absence of detailed information concerning the measures being taken or contemplated to apply the substantive provisions of the instruments, the Committee has been unable to determine the extent to which it can be said that a national policy has been formulated or implemented. The Committee has also encountered this problem when examining the application of the Convention in those ratifying States which have not given expression to the concept in legislation or in policy statements: there are certain difficulties in determining compliance with the Convention when the action taken to give effect to its provisions does not appear to have been carried out under the aegis of a coherent, coordinated national policy. In such cases, the Committee has been obliged to assess whether the body of legislative provisions and practical measures concerning employment and the family and social services and benefits in a particular country are sufficient to comprise a national policy under the terms of Article 3. Such an assessment is, of course, necessarily difficult, especially when many of the measures taken in these areas appear to have been inspired by concerns largely irrelevant to the overall objective of creating effective equality of treatment between men

⁵ ILO: Report V(2), ILC, 67th Session, Geneva, 1981, p. 20.

and women workers or to the particular aim of promoting equality for workers with family responsibilities.

62. The Committee wishes to stress the importance of viewing the application of the Convention in a broad perspective. It is evident from the terms of this instrument that its implementation requires measures to be taken in a number of distinct areas, responsibility for which is normally vested in more than one government agency or ministry or indeed, non-governmental organization. In addition to action by the labour ministry or department, some measures lie within the responsibility of those government authorities concerned with, among other things, ensuring and promoting equality between women and men, and establishing policies and programmes in the areas of community services and education and vocational training.

63. Accordingly, it would not be sufficient for the purpose of implementing the Convention to rely on the measures taken only by one authority or agency of a country's administration. This also argues that governments should commit themselves to an explicit national policy in the form most appropriate to national conditions and possibilities. Conversely, in the absence of a specifically stated policy defining objectives and allocating resources, it is difficult to see how the necessary coordination of action could take place. Such a policy would be an essential basis, moreover, for evaluating whether the programmes undertaken by different agencies and organizations are sufficient to meet or promote the objectives of the Convention.

64. Although relatively few governments have adopted an explicit national policy, as called for by the Convention, more and more countries have started to devote attention to measures by which workers might be better assisted to reconcile their work and family obligations. Historically, the Scandinavian and the Eastern and Central European countries were the first to address this issue.

65. In the Scandinavian countries, family policies — based on enabling both men and women to combine parenthood with economic activity — have, over some decades, converged with equality policies, which are concerned with ensuring the ability of each individual, irrespective of sex, to achieve economic independence through gainful employment, an aim that presupposes changes in attitudes about the roles of men and women. Emphasis has been placed on strengthening the measures in each area in order to further the promotion of the overall perspective of equality. Accordingly, comprehensive equality legislation has been enacted, measures have been taken to uphold the economic independence of all adults, through, for example, separate taxation for husbands and wives, and child-care facilities and parental leave benefits have been expanded.

66. By contrast, in the context of the Central and Eastern European system of central planning, women were provided with special protection against discrimination during pregnancy and nursing. In addition, marked efforts were made to create, through legislation and practical schemes, conditions conducive to combining employment and motherhood, such as reduced hours of work, special work schedules, assignment to less arduous tasks, special leave, provision of facilities for nursing infants and child care. The measures taken were predicated on the assumption that the main responsibility for family care and the household lay with women. This resulted in women bearing such a heavy

burden at home that inequalities between men and women in the workplace were reinforced.

67. Today, various factors have apparently converged to inspire the development and promotion of policies to enable workers to cope effectively with their occupational and family responsibilities. On the basis of information available to the Committee, supplied both by governments and sources within the Office, it has been possible to determine that some fundamental social changes have had a major impact in this regard. Statistical data show that just during the last two decades, women's share of the total paid labour force increased in almost all regions, whereas, by contrast, men's participation in the labour force has fallen everywhere. Forty-one per cent of the world's women, aged 15 years and over, are now said to be economically active.⁶ As they stand, these statistics are impressive. However, official employment data tend to underestimate, sometimes substantially, the extent of women's economic activity in certain areas, such as in family enterprises, agriculture and in community services, as well as in the informal sector.

68. In many countries, the high rate of female participation in the paid labour force is largely due to the fact that women with young children re-entered the labour force in great numbers over the last three decades or, contrary to past behaviour, maintained their employment after the birth of children. Some governments have supplied information indicating that only a relatively small percentage of families in their countries now fit the traditional image of a wage-earning father and a stay-at-home mother caring for children. This relates also to the marked change in the composition of families seen over the last few decades. For example, women-headed households make up over 20 per cent of all households in Africa, the industrialized countries and in Latin America and the Caribbean; and this phenomenon is increasing worldwide.⁷

69. Parallel to these trends, demographic shifts have resulted in rapidly ageing populations. Developed countries have already reached very low levels of fertility and mortality: their populations are considerably older than those in other parts of the world and are projected to become even older. While other countries are still in an incipient or early stage of this demographic transition, it seems inevitable that population ageing will be a significant problem everywhere by the second decade of the next century, only some 30 years from today.⁸ National economies are therefore depending more and more on women's labour; and will require that labour critically as the ageing phenomenon becomes more pronounced. At the same time, the ageing of populations means that a growing number of workers will be caring for elderly or disabled parents or relatives. A few government reports have referred to the necessity of introducing measures in accordance with the provisions of the Convention and Recommendation specifically in order to attract more women into the labour market at large, or into particular occupations.

70. In the face of these circumstances, some governments and workers' and employers' organizations have become aware of the importance of facilitating the reconciliation of work and family responsibilities, in accordance with the objectives of

⁶ United Nations: "The world's women, 1970-1990: Trends and statistics", United Nations, New York, 1991.

⁷ *ibid.*

⁸ United Nations: "The world ageing situation", 1991.

the Convention and Recommendation. The Committee has been encouraged to note that, increasingly, a clear link is being made between the spheres of equality in family life and equality between women and men in the workplace; and as a result, the issue of harmonizing employment and family commitments between women and men has emerged as a major policy theme in a growing number of countries.

71. While the philosophical basis for adopting policies in this area may differ according to the political, economic, social and cultural circumstances of a given country, the actual policies and programmes introduced may nevertheless be similar in content and effect. Some governments appear to have taken measures consistent with the objectives of the Convention and Recommendation with the overriding aim of furthering the promotion of equality between men and women. In spite of the growth of women's labour force attachment, gender inequality in the labour market has persisted. It has become evident that when working women are also expected to take primary responsibility for the family and household, inequality between the sexes is further reinforced. Because women are forced to adjust their work lives around their other obligations, they have unequal job opportunities, career prospects and job status and consequently, reduced income and job security. Where benefits such as maternity leave and child care are not available or are inadequate, women are either forced to interrupt their paid employment — a measure which affects negatively their possibilities for advancement — or couples decide against having children.

72. The priorities may perhaps again be different for individual employers. Surveys of employers who have adopted "family-friendly" policies and established facilities such as child care, have cited positive changes in the workplace, including the increased ability to recruit and retain employees, improved employee morale, lower absenteeism, favourable publicity and improved community relations. There are also many studies indicating that absenteeism, tardiness and low productivity due to family-related causes result in millions of lost workdays every year. One study undertaken by a large company stated that along with the day-to-day productivity losses that result from time spent on the job dealing with family matters, are a number of longer-term strategic costs: when an employee cannot undertake a major project, for example, or turns down a promotion because the organization is unwilling to accommodate his or her family commitments, it is a loss to both the company and the worker.⁹

73. The trade union movements in a number of countries have also recognized that their survival and strength will be jeopardized unless they undertake activities relevant to the needs of the changing workforce, and more particularly, working parents, women and part-time workers. In 1990, the Women's Bureau of the International Confederation of Free Trade Unions (ICFTU) published the organization's policy on work and the family. Considering that 1994 has been proclaimed the International Year of the Family by the United Nations, the policy recommends that there should be a major trade union

⁹ See, for example, "Work and family: The crucial balance", Ontario Women's Directorate and Ontario Ministry of Community and Social Services, Mar. 1991.

campaign to press governments to ratify and implement Convention No. 156 for the benefit of all workers.¹⁰

74. Other concerns have also promoted action. According to information provided by governments with their reports, the fatigue and stress involved in juggling work and family demands is not only damaging the health of women themselves but is having repercussions on the emotional well-being of other family members. In this respect, the high incidence of divorce in many countries, instituted increasingly by women, is said to reflect the degree of tension and frustration between the sexes as they attempt to adjust to new roles. To the economic losses sustained by industry must then be added the financial cost to societies of poor health, family dysfunction and the resulting need for increased social services.¹¹

75. Some governments (for example, *Norway* and *Sweden*) have also alluded to the importance of changing the traditional role of men, as well as that of women, a concern expressed in the Preamble to the Convention. Studies undertaken in a few countries have begun to focus on the changing role of men, and particularly on the desirability of adapting work schedules and career patterns to enable men to develop closer relationships with their children. This hitherto neglected field of research emphasizes that equality between the sexes also demands urgent attention to measures which change contemporary expectations of men.

Examples of national policies

76. It is evident that the provisions of Convention No. 156 and Recommendation No. 165 are regarded in some countries as a fundamental and necessary part of the national policy to advance equality between men and women generally. Accordingly, those governments have provided detailed information, relating the measures taken for workers with family responsibilities to action taken under other instruments, notably ILO Conventions Nos. 100 and 111, in a way that highlights the indivisibility of the principle of equality. In *Sweden*, for example, progress towards equality has been made through consistently pursued reforms in the fields of economic, social and family policy. The substantial influx of women into the labour market in the 1960s and 1970s was met with the introduction of financial benefits for families, parental insurance and child care designed to help parents to combine employment and family life. As at February 1992, slightly more than 84 per cent of all women were gainfully employed (and 90 per cent of all men). Although 41 per cent of women worked part time as against 6 per cent of men in 1989, women have been steadily increasing their hours ever since the 1970s. Of late, more and more fathers are taking parental leave and are doing so for longer periods: about 46 per cent of fathers now take some parental leave. Pay differentials between men and women in Sweden are small compared with many other countries but there is concern

¹⁰ "ICFTU policy on work and family", Women's Bureau, International Confederation of Free Trade Unions, Apr. 1990.

¹¹ See, for example, "Working families: Sharing the load (An Issues Kit for the Workers with Family Responsibilities Program)", Prepared by the Working Families Program, Office of the Status of Women, Department of the Prime Minister and Cabinet, Commonwealth of Australia.

about the considerable segregation of the sexes in the labour market. Not only do women and men work in different sectors, they also perform different jobs in the same sectors.

77. Initiatives to promote equality in *Sweden* are interesting from the point of view of Convention No. 156 in that they comprehend the interrelationship between equality in the family and at work. New equality legislation, which came into force in January 1992, extends the ban on discrimination to more cases where, according to the Government, a person — most often a woman — suffers discrimination on account of having, or being presumed to have, principal responsibility for children and the home. The legislation also calls upon employers to make special efforts to bring about an even distribution of men and women in a certain type of work or within a certain category of employees. In addition, employers with more than ten employees are obliged to draw up annual equality plans, which provide an overview of measures needed at the workplace, such as those to facilitate the combination by employees of parental responsibilities and gainful employment. Although the more extensive utilization of paternal leave would appear to indicate that the division of labour in the home has become more equal, the Government believes that a great deal remains to be done in this respect and it has accordingly earmarked funds for special information measures aimed at increasing paternal use of the parent's allowance. There has also been a policy decision that publicly financed public child care in the 1990s will be part of the general welfare system in the country, a facility to which all children are entitled. The Government has stated that child-care programmes have the dual purpose of combining early educational training with social support in a unified system and that they are designed to give both men and women equal opportunities to combine gainful employment with family life.

78. Some reports have also emphasized the importance of taking measures under the Convention in connection with action to promote social development generally and particularly in rural areas. The Government of *Greece* has committed itself to implementing a specific policy for the social liberation of women and of the Greek family as a whole, which policy forms part of a more general programme for the country's social development. In this regard, statutory measures and positive action programmes in the area of vocational guidance and employment have been promoted by the General Secretariat for the Equality of the Sexes, in association with other agencies such as the Workforce Employment Agency and the Hellenic Productivity Centre. Emphasis has been placed on promoting the training and employment of women in traditionally male occupations and in new technologies. The Government is promoting the setting up of cooperatives with the aim of ending the system under which women farmers work without pay, thereby ensuring economic independence for those workers. Cooperatives are also being established to deal with unemployment problems in urban areas. A 1987 report of the General Secretariat for Equality identified a number of difficulties met in the implementation of the programme. These included tangible problems concerning the lack of a social infrastructure (day-care, counselling, family planning and health centres); and the more difficult task of combatting those social prejudices which reinforce the role stereotypes of the two sexes and which manifest themselves in all areas of human activity. The country's Five-Year Economic and Social Development Plan (1988-92) then made provision for the gradual overcoming of these problems by the various responsible agencies and organizations.

79. Some governments which have not yet ratified the Convention have also delineated the elements that are relevant to the pursuance of a national policy under Article 3, in terms which acknowledge the need for interaction between all measures to ensure equality. The Government of *Austria* has referred to the objective of full employment under its labour market policy. By applying this policy, the federal Ministry of Labour and Social Affairs has endeavoured to make an effective contribution towards ensuring the equality of women and men with family responsibilities. In this respect, the Government has cited a number of measures taken with a view to promoting the employment of women with family responsibilities. The Government has conceded, however, that the target of de facto equality of women and men with family responsibilities has not yet been attained; additional measures are therefore also needed, such as those that might be taken by industry and by the regional and local authorities to create parent-friendly conditions of employment and to establish supporting facilities, like child care. As there is a strict division of roles in society, a socially modified consciousness towards ensuring that a professional career can be pursued without conflicting with family life, is a prerequisite for a labour market policy which would give effect to the Convention. In this regard, reference is also made to the country's social policy, which aims at establishing equality between the sexes. Pursuant to this policy, equality legislation and educational and promotional programmes have been introduced, reviewed and broadened as the need for further measures has become apparent.

80. National policies have been refined or reoriented over the course of some years as the need for different strategies has become obvious. Social pressure, different labour market demands and, sometimes, profound constitutional and political changes seem, in some instances, to have played a part in promoting action in accordance with the aims of the Convention; in others, they have not.¹² The Government of *Belarus* has referred, in its report, to constitutional and legislative provisions enacted both to guarantee women equal rights and opportunities in employment, and to grant pregnant and nursing women comprehensive assistance and facilities conducive to combining employment and motherhood. The Government has stated that, of late, increasing attention has been paid to resolving the many contradictions faced by a woman in her daily life and to changing the traditional roles of men and women in the family and in industry. Campaigns are being undertaken to inform the public of measures that make it easier to combine work and family responsibilities, and to provide information on how state policy is gradually extending to fathers and other members of the family the benefits and privileges hitherto reserved for women. In *Belarus*, in recent years, scientific research into the problems of the family and women has been expanded. The aim of these studies is to analyse the problems, forecast the trends and determine how the situation of workers with family responsibilities will change during the transition to a market economy. On the basis of this research, possible ways and methods to solve the difficulties will be determined; and economic decision-makers, managers and politicians will be alerted to the problems. It is hoped that the transition to a market economy, alongside the need to strengthen social protection for disadvantaged members of society, may create the conditions to improve the well-being of the family: the development of new forms of ownership will help the

¹² In this regard see the comments referred to in paras. 86 and 87.

expansion of labour activity and promote economic independence and initiative. According to the Government, the creation of small enterprises, including private businesses and individual and cooperative labour activity, is giving families the opportunity to choose the form of employment most beneficial for them in terms of increased income, work schedules and free time to care for children. In addition, a programme of action for the 1990s has been drawn up for the improvement of the situation of women and the family, maternity and child protection.

81. The policy of the Government of *Norway*, as enunciated in statements presented to Parliament in the early 1980s, was to work for changes in attitude and for practical reforms with a view to a better distribution between men and women of responsibilities in the home, at work and in the life of the community. Legislation designed to promote an equal status between the sexes and particularly to improve the position of women was enacted in 1978; and an Action Plan for Equal Status between the Sexes was approved by the Parliament in 1981. In addition, a general agreement between the Norwegian Employers' Confederation and the Norwegian Federation of Trade Unions on Equality between Women and Men in Working Life was concluded, for the period 1982-85. The Government has now indicated, in its report, that national policies and measures to promote equal status between men and women are being readjusted from focusing primarily on women's educational and job opportunities, to being more preoccupied with the male sex role and in particular, with men's potential for caring. A Male Role Committee, set up in 1986 by the Equal Status Minister, concluded its work in 1990 and recommended that increased male engagement in caring for small children ought to be an important policy aim in the future. Accordingly, in a White Paper presented to Parliament in June 1992, it was suggested that four weeks of the paid parental leave available in the country be reserved exclusively for the father. It is considered that a strengthening of male workers' commitment to family responsibilities will contribute both to freeing women's time as well as to reinforcing women's work commitment; and that it may also contribute to eliminating any lingering prejudice against female employees on the grounds of actual or potential family responsibilities. It is also a policy aim of the Government to increase the number of male staff in the caring professions, particularly at the pre-school and primary school level where male role models are considered most important. In this regard, an amendment to the equality legislation is being proposed which will allow positive action in favour of men. At present, such measures are practised only, or mainly, in favour of women.

Means of application

82. Article 9 of the Convention and Paragraph 3 of the Recommendation provide that the provisions of the respective instruments may be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions, or a combination of these methods, or in any other appropriate manner consistent with national practice or national conditions. As this report has already reviewed a number of constitutional and legislative provisions which are the primary means both to enunciate and apply a national policy, emphasis is placed here on the ways in which employers' and workers'

organizations have participated in devising and applying measures designed to give effect to the provisions of the Convention, as provided for in its Article 11.

83. A number of governments have reported that measures to apply the Convention are included increasingly in sectoral or enterprise collective agreements. A 1992 report of the *United States* Department of Labor revealed that out of 452 major collective bargaining agreements studied, just over 50 per cent contained one or more work and family provisions, that is, clauses which are specifically concerned with conventional areas of interest, including maternity and parental leave, adoption, child care, leave for family illness, employee assistance programmes, elder care and prohibitions against discrimination because of a worker's, or potential employee's, marital status.¹³

84. The *Australian* Council of Trade Unions (ACTU) adopted a "Workers with Family Responsibilities Strategy" at its Congress in 1991, in which it endorsed the provisions of Convention No. 156 and Recommendation No. 165 and determined priorities for implementing the instruments. This document stresses that the influx of women into the paid workforce and the ageing of the population have made it increasingly necessary for the trade union movement to address the needs of workers with family responsibilities. In 1992, the ACTU published a booklet containing guidelines for enterprise bargaining on work and family issues, which also contains examples of provisions already included in awards, enterprise agreements, personnel policies and staff handbooks.¹⁴ The Council of Equal Opportunity in Employment (a body set up by the Business Council of Australia and the Australian Chamber of Commerce and Industry), which was also involved in this work, has itself recently published a book on the issue of working families, which presents a large number of practical measures taken by businesses to facilitate the reconciliation of work and family responsibilities.

85. An equal opportunities agreement in *Sweden* (concluded between the Swedish Employers' Confederation, the Swedish Trade Union Confederation and the Federation of Salaried Employees in Industry and Services in 1983), established goals suitable to conditions in the private sector in accordance with the equality legislation. Among the objectives to be pursued is the goal of ensuring the possibility of combining gainful employment with parental responsibility.

86. Workers' and employers' organizations have considerable possibilities to assess the practical application of national policies and thus to play an active role in tripartite consultations concerning legislative or other reforms designed to increase the effectiveness of those policies. Commenting on the Government of *Poland's* report, the Independent Self-Governing Trade Union (NSZZ Solidarnosc) has stated that, while it shares the view of the Government on the need for comprehensive reforms of social legislation and policy as well as their adjustment to the new economic circumstances, it has been concerned to note a trend to reduce the operation and scope of several legislative and financial safeguards for workers with family responsibilities since the introduction of measures oriented to a market economy.

¹³ "Work and family provisions in major collective bargaining agreements", United States Department of Labor, Bureau of Labor-Management Relations and Cooperative Programs, 1992.

¹⁴ "Work and family issues: Guidelines for enterprise bargaining", Australian Council of Trade Unions, Oct. 1992.

87. Among the examples cited by the Union, the Privatization of State Enterprises Act of 1990 has expanded the notion of "liquidation" of an establishment beyond the literal way in which that term was construed in the Labour Code, an interpretation acknowledged by the Supreme Court. Consequently, the legal and organizational transformation of establishments within the privatization process (as opposed to a physical and legal closing down of an establishment) has opened the way for the termination of contracts of pregnant female workers and those on maternity leave. The Union has indicated that in practice, this opportunity for terminating the contracts of women workers is reported to be used on a large scale. However, the Union has also stated that in many other cases, both establishments and the labour courts have construed the provisions of the 1990 Act in such a way that female workers are afforded the relevant protection. In view of confusion over the practical application of the Labour Code and the Privatization Act by different establishments and labour courts, the Union has called upon the Government to take measures to remove the ambiguity. The Union has also noted that female workers are often dismissed immediately or shortly after they return to work from child-care leave, despite the legal requirement that an establishment is obliged to employ such a woman at a similar post or another post corresponding to her skills. Women workers with family responsibilities and, especially those who are single and those who are on child-care leave, have, according to the Union, thus become a group particularly vulnerable to dismissal.

88. The Government of *Finland* has included in its report, a joint statement of four labour organizations — the Central Organization of Finnish Trade Unions, the Confederation of Salaried Employees, the Confederation of Technical Employee Organizations and the Confederation of Unions for Academic Professionals — which has pointed out, among other things, that there is no way of reducing working hours to care for a family member other than a child. Furthermore, the organizations have stated that the country lacks an effective home-help system to meet the case where the child of working parents falls ill: in such cases, the mother usually has to exercise her right to stay at home and care for her sick child. This has promoted among employers the view that lower rates of pay in predominantly female fields of work are justified, as they claim the indirect labour costs in those areas are higher.

89. In some countries, formal measures have been taken to ensure the participation of trade unions and employers' organizations in improving the implementation of national policies. For example, in *Portugal*, equality legislation¹⁵ established a tripartite Committee on Equality in Work and Employment with the duties of recommending to the Ministry of Labour the adoption of legislative, regulatory and administrative measures aimed at improving implementation of the norms contained in the legislation; to promote studies and inquiries to eliminate discrimination against women in work and employment; to encourage and promote action to spread a knowledge of the purposes of the legislation; to approve opinions submitted to it by its secretariat in connection with equality in work and employment; and to publicize cases in which discrimination under the legislation has occurred.

¹⁵ Legislative Decree No. 392/79, to guarantee equality of opportunity and treatment for women and men in matters of employment. Dated 20 September 1979. According to section 3(1), "The right to work shall imply the absence of any discrimination based on sex, whether directly or indirectly, and, specifically, by reference to marital status or family circumstances."

Information, education and research

90. The Committee is of the opinion that if the measures taken to implement a national policy under Article 3 are to be effective in furthering equality between men and women, they should be accompanied by a major campaign of sensitization in order to promote widespread acceptance of the notion that the family is the concern of each individual, man and woman, and that society must enable all persons with dependants both to exercise their responsibilities and to participate fully in the labour force. Article 6 of the Convention underlines the importance of this requirement by calling upon the competent authorities to take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems. Paragraph 11 of the Recommendation suggests that the competent authorities and bodies undertake or promote research into the various aspects of the employment of workers with family responsibilities with a view to providing objective information on which sound policies and measures may be based; and that they promote such education as will encourage the sharing of family responsibilities between men and women and enable workers with those obligations better to meet their employment and family commitments.

91. The Committee has noted a wide variety of innovative measures being taken in many countries to promote acceptance of the overall objective of the instruments, or in some cases, to deal with particular aspects of the problem. Following the ratification of Convention No. 156, the Government of *Australia* launched a community education programme entitled "Working Families", which was conducted by the Office of the Status of Women in the Department of the Prime Minister and Cabinet. The educational resource material (including a video and kits providing statistics, speakers' notes, case-studies and information on the requirements of the Convention), is designed to be used in a variety of settings, from parent education classes in maternity hospitals and clinics to workplaces and educational institutions.

92. A number of governments have also prepared guides for employers which describe the strategies taken successfully in some enterprises to offer employees different working patterns and facilities so that they may achieve a satisfactory balance between work and family responsibilities. These publications emphasize the need for firms to develop a wider range of techniques to recruit and retain employees if they are to maintain a competitive edge in the market. In *Canada*, for example, the Ontario Women's Directorate and the Ontario Ministry of Community and Social Services co-sponsored a publication entitled "The Crucial Balance"¹⁶ which illustrates how leading companies have developed programmes to benefit from the demographic, social and employment changes in the country. Similarly, a booklet prepared by the Employment Department in the *United Kingdom*, with the participation of a number of large companies, seeks to encourage employers to consider whether their present arrangements will enable them to make the most efficient use of all the skills and talents available to them at a time when

¹⁶ op. cit., "Work and family: The crucial balance".

the labour force is undergoing significant change.¹⁷ The publication stresses that such measures will be especially important towards the end of the present century when a decline in the number of school-leavers will require employers to seek alternative sources of recruitment. A Work and Family Resource Kit was also issued by the Women's Bureau of the *United States* Department of Labor, prepared in collaboration with the Families and Work Institute, to help employers understand the range of family needs emerging in the workplace and the numerous options for a company response. The Government of *New Zealand* has committed funding for the promotion of equal employment opportunity practices and programmes in private sector workplaces, including a project to develop a comprehensive company-based policy to respond to the special needs of workers who also fulfil principal care-giving roles.

93. In addition to those activities which focus on encouraging the harmonization of work and family responsibilities for both men and women, a number of reports have described the more general measures being taken to promote equality for women. For the most part, these programmes are undertaken by the specialized agency responsible for implementing or promoting the implementation of the national equality provisions. In *Japan*, publicity and information activities are concentrated during the month of June every year, a time designated as the Month for Equal Employment Opportunity between Men and Women. The Ministry of Women's Rights, Child Development and Family Welfare in *Mauritius* has embarked upon an information campaign to remove negative perceptions and attitudes against women, inform women of their rights and encourage them to participate more actively in the affairs of the country. The campaign, undertaken through the organization of talks, seminars, exhibitions and television programmes, aims at projecting a positive image of women as partners in the country's development. In *Mozambique*, measures to sensitize the public to the principles of equality have been developed by the Government, the social partners and by organizations such as the Mozambique Women's Organization. Over the last two years, a particular effort has been made to ensure that women themselves are aware of their legal rights. In *Turkey*, the Institute of Family Research was founded with the aim of establishing a better understanding of the principle of equality of opportunity and treatment between men and women and of the problems confronting workers with family responsibilities.

94. With active patterns of migration, many countries have populations with multicultural and multilingual origins. The appreciation and acceptance of different social and cultural trends by newly arrived citizens demands special sensitivity. The Government of *Sweden* has emphasized the importance of entrusting the dissemination of material on social policy, legislation and the promotion of equality to immigrant organizations who receive financial and other support from the State, in order to ensure acceptance of the national policies among those who come from different cultures.

95. Some countries have also considered relevant to the application of the Convention, information and education campaigns concerned with family planning and family welfare. Such programmes are seen as being crucial to creating family structures that are more easily reconcilable with work responsibilities. The Government of *Mexico*

¹⁷ "The best of both worlds: The benefits of a flexible approach to working arrangements" (A guide for employers), United Kingdom, Department of Employment, May 1991.

has, for example, referred to programmes aimed at extending and intensifying family planning education and at emphasizing the responsibility of both mothers and fathers in this regard, an approach which is seen as promoting equality between the sexes both in respect of education and as concerns productive employment. In *Niger*, the Government has reported that the application of the Convention is furthered through the activities of family health and information centres which advise workers on family management and family planning.

CHAPTER III

Training and employment

96. Equality of opportunity and treatment in employment for men and women workers with family responsibilities implies, in effect, the absence of discrimination in respect of recruitment, terms and conditions of employment and dismissal. As with the other ILO instruments in this field, however, Convention No. 156 and Recommendation No. 165 seek not merely to prohibit direct and indirect discrimination in each of these areas. The standards also call for the adoption of measures designed to promote the conditions in which workers with family responsibilities may enjoy full and genuine equality with other workers. Accordingly, they place emphasis on improving the employment possibilities and job security of workers with family responsibilities through strengthening their occupational qualifications.

97. Article 4, paragraph (a), and Article 7 of the Convention and Paragraphs 12, 13 and 14 of the Recommendation link the question of access to and integration in employment to those services, facilities and policies that would enable workers with family responsibilities to overcome the problems particular to their situation (that is, the restrictions that these workers face, because of their family responsibilities, "in preparing for, entering, participating in or advancing in economic activity" (Article 1, paragraphs 1 and 2)).¹

98. Active measures to facilitate and promote access to employment necessarily include initiatives to make the workplace more responsive to the needs of workers, as well as efforts to provide adequate child-care and other family services and facilities to meet those responsibilities that workers would otherwise have to shoulder alone or neglect. While it must be stressed that the full implementation of the Convention and Recommendation requires concerted action in all of these areas simultaneously, this chapter is concerned with the specific measures taken to place workers with family responsibilities on an equal footing with other workers in the areas of training and employment. To avoid duplication with other areas of the report, reference is therefore made to the issues covered in other chapters only where these are relevant to the more limited questions of employment promotion or training measures.

¹ *Record of Proceedings*, ILC, 66th Session, Geneva, 1980, p. 32/15, para. 140.

Facilitating entry and re-entry to employment

99. Article 4, paragraph (a), of the Convention states that all measures compatible with national conditions and possibilities shall be taken to enable workers with family responsibilities to exercise their right to free choice of employment. In order to indicate clearly the scope of this provision, the Article specifies that the measures contemplated in this regard belong in the context of "creating effective equality of opportunity and treatment for men and women workers".²

100. Reference to the preparatory work of the Convention indicates that the stipulation in Article 4, paragraph (a), that these workers be enabled to "exercise their right to free choice of employment", is to be considered as comprehending equality also in relation to access to vocational training, and access to employment and to particular occupations. Since the term "employment" was defined in the Discrimination (Employment and Occupation) Convention, (No. 111), 1958, as including "access to vocational training, access to employment and to particular occupations", it was not considered necessary to make specific reference to these additional matters in Article 4, paragraph (a).³

101. The original motivation for including Article 4, paragraph (a), was to promote the adoption of measures that would enable workers with family responsibilities to choose freely the kind of employment that was compatible with their needs.⁴ While no qualification concerning the special needs of these workers appears in the adopted text of paragraph (a), Article 4 does refer, in its paragraph (b), to the requirement to take account of their needs in terms and conditions of employment and in social security. It is evident, nevertheless, that Article 4, paragraph (a), would have no consequence were it not to imply that family responsibilities affected negatively the exercise of the right to free choice of employment; and that conversely, the right to choose employment freely necessarily implies adopting measures which take into account those constraints.

102. A number of governments have stated that all workers, irrespective of their family situation, are guaranteed exercise of the right to free choice of employment. More specifically, many have stated that no measures prevent or restrict workers with family responsibilities from exercising this right; and that, moreover, national policies and legislation concerning equal opportunity and treatment in employment conform with the provisions of Convention No. 111 in prohibiting distinctions, exclusions or preferences on the basis of race, colour, sex, religion, political opinion, national extraction or social origin (Article 1, paragraph (a)). Some reports have indicated that present policies have been focused on generating employment opportunities for all workers, an evident priority in the face of massive unemployment.

103. Paragraph 15 of the Recommendation states in general terms that workers with family responsibilities should enjoy equality of opportunity and treatment with other workers in relation to preparation for employment, access to employment, advancement within employment and employment security. As has already been noted above, all of

² *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/12, para. 125.

³ *Record of Proceedings*, ILC, 66th Session, Geneva, 1980, p. 32/15, para. 140.

⁴ ILO: Report VI(2), ILC, 66th Session, Geneva, 1980, pp. 30, 120; *Record of Proceedings*, ILC, 66th Session, Geneva, 1980, p. 32/15, paras. 140, 141.

the ILO's equality instruments require that, within the framework of a national equal employment policy, action be taken not only to eliminate discrimination on the grounds specified in the particular standard but also to promote equality through a permanent process of rigorous action, capable of responding to changes in society.⁵ In this connection, the Committee would recall the possibility under the Convention of taking measures essentially for women whose family responsibilities restrict their opportunities for economic activity, so long as men are not barred from access to such measures should they find themselves in the same position. Concerning the practical measures taken to promote the employment and re-employment of workers with family responsibilities, a number of countries have included information in their reports on the programmes undertaken to assist women's access to the labour market which, as women tend to be primarily charged with family responsibilities, may be viewed as having a positive effect on applying the Convention and Recommendation. In *Austria*, for example, a number of measures aimed at women are being taken within the context of an active labour market policy to promote equal opportunities for women and men, including the appointment of a network of female counsellors in the regional employment offices, and a campaign entitled "labour market administration for women" launched in 1989 by the Labour Market Administration. The principle of employment equity is also central to the programmes undertaken by the *Canadian Jobs Strategy* — a scheme providing assistance to persons with specific difficulties in finding and keeping lasting employment — which has target levels for women and other groups identified as being underrepresented in the labour market. A Workforce Employment Agency programme in *Greece* to subsidize 10,000 new jobs for persons over the age of 25 years, awards higher subsidies for women taken on in the secondary and tertiary sectors than for men.

104. For the most part, national measures to promote the entry — and more especially the re-entry — to employment of workers with family responsibilities are integrated with vocational guidance and training services in the same way that these elements are linked in the Convention and Recommendation. In this respect, Article 7 of the Convention strengthens and amplifies Article 4 by providing that all measures compatible with national conditions and possibilities, including measures in the field of vocational guidance and training, shall be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

105. Paragraph 14 of the Recommendation proposes that services to enable workers with family responsibilities to enter or re-enter employment should be made available, within the framework of existing services for all workers or along lines appropriate to national conditions; and that such services should include, free of charge to the workers, vocational guidance, counselling, information and placement services which are staffed by suitably trained personnel and are able to respond adequately to the special needs of workers with family responsibilities. Particular attention was paid, in the preparatory work, to the retention of the word "enable" in Paragraph 14, against a proposal to replace

⁵ See, for instance, para. 240 of the General Survey by the Committee of Experts of the reports on the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958, Report III (Part 4B), ILC, 75th Session, Geneva, 1988.

it with the word "assist".⁶ This appears to indicate that, whatever the nature of the services provided — which are not in any case listed exhaustively in the Recommendation — they should be as effective as possible in meeting the stated goals. In addition, emphasis was placed on the importance of providing for measures to enable the personnel of vocational guidance, counselling, information and placement services, who may have a key role in promoting effective equality of opportunity, to receive special training on questions relating to the elimination of discrimination in order to enable them to serve workers with family responsibilities adequately.⁷

106. An example of counselling for individual applicants for employment is offered by the Federal Employment Institution in *Germany*, which informs workers and employers about the labour situation, changes in trades, needs and possibilities of vocational training and entry into employment. Information centres have been set up for this purpose in employment offices, all of which are equipped with child-care facilities at the disposal of applicants.

107. Placement services may accord priority for employment specifically to all workers with family responsibilities. In *Spain*, the National Employment Institute is collaborating with local communities and businesses to set up work projects and services for unemployed workers registered with the Employment Office, who meet criteria, set by Order, of being adaptable to the post offered, of being unemployed the longest time and of having family responsibilities. In addition, Spain's Rural Employment Plan establishes as a selection criterion for its employment schemes, those unemployed workers who have dependent family members.

108. In some cases, rules or regulations require that applicants for employment indicate, on the relevant job application forms, whether they have dependent family members, among other personal data such as nationality and domicile. This is required, for example, in *Mexico* under the provisions of the Federal Labour Act, 1970, as amended in 1979. According to that legislation furthermore, employers are obliged, when all other conditions are equal, to give preference to certain categories of workers, including nationals, trade union members, those with the greatest seniority, and those workers who have family responsibilities and no other source of income. The Government of Mexico has referred to this provision as an example of the way that labour standards in that country place a value on family responsibilities, in particular, as regards access to employment. This approach may be contrasted with that found in other jurisdictions such as *Colombia* where, according to the Government's report, measures have been taken to prevent direct or indirect discrimination on the basis of marital status and family responsibilities through legislation which provides that applications for employment in governmental and semi-governmental agencies, and in the private sector, shall not require applicants to furnish information on their civil status and number of children.

109. Several governments have provided information concerning the measures taken to assist workers to reconcile their work and family responsibilities in the case of relocation, and more specifically through assistance to enter or re-enter employment given

⁶ *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/21, paras. 265-267.

⁷ *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/21, para. 271.

to the spouse or other family member of an employee who is obliged to move to a different location for job purposes. Though women are more likely to be in the situation of having to adapt to the relocation of their partners, the situation is changing as more women enter jobs that involve transfers. A recent report prepared for the Women's Bureau in the *Canadian* Ministry of Labour, surveys the ways in which leading Canadian companies are adapting their relocation policies and practices to meet the changing needs of employees and their families.⁸ The report places particular importance on the desirability of providing employment assistance to the transferring spouse.

110. The Government of *Spain* has referred to the 1990 agreements it concluded with the Governments of *Canada* and the *United States*, which accord to dependants of employees of diplomatic missions, consulate offices or permanent representatives of international organizations, the right to engage freely in remunerated activities in the host country. This subject has also been addressed by the Commission of the European Communities in view of the potential for migratory movements after the commencement of the single market in 1993. A report published in 1992⁹ concluded that companies, administrations and the European Community must work to find solutions to the two issues particularly affected by mobility, namely, the loss of the spouse's job and the continuity of the children's schooling.

Training

111. Paragraph 13 of the Recommendation suggests that in accordance with national policy and practice, vocational training facilities and, where possible, paid educational leave arrangements to use such facilities should be made available to workers with family responsibilities. The inclusion of this provision was apparently not meant to advocate the introduction of paid educational leave in countries where such arrangements did not exist, but was rather intended to recommend the adoption, in countries where it was available, of measures to allow workers with family responsibilities to benefit from it on an equal footing with other workers.¹⁰

112. Many of the reports reviewed indicate in general terms, that vocational guidance and training are provided for all workers on a non-discriminatory basis. It is encouraging to note from a number of the reports received that a variety of innovative training schemes have been launched to support, in particular, the re-entry into the labour force of persons who had withdrawn from paid employment to meet their family responsibilities. Some of the training programmes being undertaken are designed to prepare workers for making the transition into the labour force and focus on building confidence and social skills and providing information about employment rights, community services and facilities and career planning. In *Ireland*, a Return to Work programme provided by the Training and Employment Authority makes available

⁸ Minister of Supply and Services Canada, "Adapting to a changing workforce: The relocation policies and practices of Canada's top companies", 1992.

⁹ Commission of the European Communities, "Professional mobility in Europe, family aspects and business practices", Mar. 1992.

¹⁰ *Record of Proceedings*, ILC, 67th Session, Geneva, 1981, p. 28/21, para. 256.

preparatory training to women in the areas of personal, social and career planning skills, primarily on a part-time basis. A similar programme is also aimed at both men and women. Those who have completed this preparatory training are encouraged to take advantage of the further training opportunities available. The Irish Council for the Education, Recruitment and Training of Persons for Tourism also offers a Return to Work programme for mature persons who have been absent from the paid workforce for family reasons.

113. In countries where the entitlement to training is conditional upon a prior period of continuous paid employment, specific accommodation is sometimes made, either to exempt workers with family responsibilities from this criterion or to count as employment the period of time devoted to family obligations. In *Germany*, workers who have been in employment and who have thereby acquired entitlement to vocational training may interrupt their occupational activity for five years in respect of each child, without losing their acquired rights. One precondition to receiving a subsidy for adult education in *Finland* is that the applicant must have been in continuous full-time employment for at least five years: the time spent caring either for a child under 10 years of age or for some other close family member in need of special care is, however, counted as equivalent to full-time work.

114. In addition to facilitating the inclusion of workers with family responsibilities in training courses, some countries award allowances to trainees. Under the *Australian* student income support scheme (AUSTUDY), recent changes have made it easier for people with family responsibilities to undertake the necessary education and training to enter or re-enter employment: sole-parent pensioners in part-time study are now granted access to an education supplement so long as they are undertaking at least 25 per cent of a normal full-time study course; and through allowing deductions for each child, eligibility for the supplement (which depends on a means-test), has been made easier for married students with dependants. Workers in *Belarus* who are upgrading their skills whilst taking a break from work are entitled to receive the average wage they earned in their previous place of employment throughout the period of training. This right is also available to workers engaged in vocational training who have lost their jobs due to closures. Trainees who are eligible to receive unemployment insurance benefits in *Canada* (where, under 1990 amendments to the Unemployment Insurance Act, benefit periods for training purposes may be extended to 156 weeks) are entitled to administration costs, course purchase and supplementary allowances for the care of dependants and travelling and living-away-from-home expenses during attendance at courses and programmes. In *Finland*, a training allowance equivalent to the daily unemployment allowance is available, and special support can also be granted to a person with several children during labour market training which includes basic, additional and supplementary training and retraining. Compensation for travel and eating costs during training can also be paid.

115. Many factors may impede or affect the successful transition from home into work for persons with family responsibilities. Apart from a lack of marketable skills, these members of the community are likely to lack confidence or skills to pursue employment opportunities (especially when their absence from the labour market has been of significant duration), and may need support in such areas as finding or financing child care or in arranging transport to training centres or to employment interviews. Some of the reports

received have described programmes developed to deliver a consolidated package of assistance to those groups of persons who, because of their family situation, are particularly disadvantaged in obtaining and remaining integrated in employment. An *Australian* programme, the Jobs, Education and Training Programme (JET), aims to improve the financial circumstances of sole parents by facilitating their entry into the workforce through a coordinated programme of assistance which provides individual advice and access to employment, education, training and child-care opportunities. While all sole-parent pensioners are eligible for JET, priority is given to those who have been on a pension for over one year and whose children are over 6 years old; those whose youngest child will reach the age of 16 within two years; and teenage sole parents. Clients of JET and other disadvantaged jobseekers are accorded priority for access to the Employment Access Programme (EAS) which includes diagnostic assessment with a particular emphasis on those with family responsibilities; remedial training for clients with literacy, numeracy or the basic skills needs; wage subsidies to employers; training in job search techniques and short and longer-term vocational training courses. These forms of assistance are accompanied by training allowances, post-placement support services, the contracting of community or private sector agencies to provide placement services to clients who have suffered very long periods of unemployment, mobility assistance and child care.

116. Flexibility in the design, delivery and location of training courses is also a marked feature of programmes developed to accommodate the restrictions faced by workers with family responsibilities in acquiring or upgrading the necessary skills for employment. A number of governments have referred to such forms of education and training as distance learning and multi-method tuition, which are increasingly provided by educational institutions for those citizens who would otherwise be unable to undertake the studies required to improve their labour market prospects or to seek advancement in their employment.

117. Relatively few reports have indicated that specific attention has been paid to the availability of paid educational leave for workers with family responsibilities, a measure that would appear to be of great value in enabling workers to compete for promotions in employment. An outcome of the comprehensive incomes and economic policy settlement agreed in *Finland* in 1990, was an experimental vocational training grant during a three-year period, which entitled persons aged between 30 and 60 years in full-time public or private employment to be paid support from the Education and Redundancy Fund financed by employers. As a precondition for this support, applicants must have been in their current employment for at least one year and working full time for at least five years altogether.

Refusal or termination of employment

118. Article 8 of the Convention provides that family responsibilities shall not, as such, constitute a valid reason for termination of employment. Paragraph 16 of the Recommendation suggests more broadly that marital status, family situation or family responsibilities should not, as such, constitute valid reasons for refusal or termination of employment. The formulation of these provisions provoked so much discussion during

the preparatory work that a general discussion was held in the course of the 1981 Conference Committee in order to allow a full consideration of the different points of view before finalizing the texts of the instruments. Some members of the Committee considered it essential that the Convention affirm the principle that family responsibilities should not constitute a valid reason for the termination of employment, since workers were often dismissed for reasons related to the fact that they had family responsibilities. Others considered that such a provision could prove a major obstacle to the ratification of the Convention. Further discussion concentrated on whether the Convention should proscribe termination on the basis of "family responsibilities" or on "sex", the point being made that since women largely bore responsibility for their families, they were more vulnerable to discrimination than men and accordingly, it was discrimination on the basis of sex that had to be eliminated. In the event, it was decided that Article 8 should be adopted in its present form. It was recalled, in this connection, that the Declaration on Equality of Opportunity and Treatment for Women Workers, adopted by the Conference in 1975, forbade discrimination against women, particularly on the grounds of marital status or family responsibilities.

119. There was also some discussion as to whether to include in Article 8 a provision forbidding the refusal of employment to a worker because of his or her family responsibilities. One government had pointed out that an employer's right to hire workers may be restricted by rules concerning, for example, the prohibition of sexual discrimination or by rules concerning such matters as powers of co-determination for trade unions; and rules could also exist enabling public authorities to exert a positive influence on recruitment, for example, with a view to promoting the recruitment of women. It was contended, however, that rules did not normally exist ensuring job applicants (whether men or women) individual rights against a possible employer. For this reason, it was considered that a prohibition on refusing employment on the grounds of marital status, family situation or family responsibilities was too broad and for that reason the Article was unlikely to be implemented in many member States unless existing legislation was revised extensively. If, on the other hand, the provision could be interpreted as prohibiting indirect sexual discrimination in this field, there would be no difficulty in applying the Article.¹¹ It was suggested that the Convention concentrate on the elimination of discrimination on the grounds of sex, in which case family responsibilities could continue to be used as a valid reason for refusing employment to a worker or for dismissing workers, provided that men and women were treated equally in such cases; or to concentrate on the elimination of discrimination on grounds of family responsibilities, in which case no reference should be made to refusal of employment. In the light of these considerations, it was agreed that this provision of the Convention should deal only with termination of employment.

120. The importance attached to the principle reflected in Article 8 is illustrated by the fact that though the question of termination of employment was under discussion simultaneously at the Conference, in connection with the first discussion of the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982, it was decided nevertheless to include this provision in Convention No. 156 and

¹¹ ILO: Report V(2), ILC, 67th Session, Geneva, 1981, p. 26, comment by Sweden.

Recommendation No. 165. In this regard, it should be noted that Convention No. 158 includes "sex", "marital status" and "family responsibilities" among the grounds which shall not constitute a valid reason for termination (Article 5(d)).

121. Some governments were concerned that the prescription of Article 8 not be interpreted as preventing termination of employment for a valid reason such as unsatisfactory performance, even where that reason is influenced, say, by the double burden of work and family responsibilities. It was for this reason that the words "as such" were introduced into the text of Article 8.¹²

122. Moreover, Article 8 does not require that a reason must be given in all cases where workers with family responsibilities are dismissed. In circumstances where employment may be terminated only for valid reasons, Article 8 excludes family responsibilities as such, as a valid reason. In this respect, it may be noted that during the preparatory work, the competent Conference Committee considered that, in keeping with the flexibility allowed by Article 9 which permits application of the Convention by a variety of means, Article 8 would not necessarily require application by legislation. Accordingly, instead of calling for an explicit prohibition of termination on account of family responsibilities — a notion which usually implied a legislative compulsion — it was agreed that Article 8 should convey the idea that termination for the stated reason be considered as not justified, so that it would be possible to apply the Article by means other than legislation, without affecting the likelihood of achieving the result aimed at in the text under discussion. On the basis of this reference, it is clear then that Article 8 seeks to prohibit termination of employment on account of family responsibilities, but allows member States flexibility in determining the manner of implementation.¹³

123. Very few countries have actually legislated to make "family responsibilities" an express ground on which discrimination in respect of all aspects of the employment relationship is proscribed. Those that have done so have evidently taken this action within the framework of wider measures to ensure equality of opportunity and treatment in employment. It is interesting to note that examples of such legislation also prevent discrimination on the ground of family responsibilities in respect of access to employment, indicating a significant change from the situation which prevailed at the time the instruments were adopted. Comprehensive legislation concerning the protection and facilities for workers with family responsibilities was, for example, enacted in Greece¹⁴ in 1984, to apply to workers of either sex having responsibilities towards dependent children or other members of their family in need of care or support. The provisions of the Act are, according to section 1, "intended to facilitate the preparation for economic activity of the workers concerned, help them to find and keep a job and to enhance their career prospects". Direct and indirect discrimination is consequently prohibited with regard to access to employment, continuance in employment and in relation to career prospects (section 4). In addition, the Act specifies that family responsibilities shall not be grounds

¹² *ibid.*, p. 27.

¹³ *Record of Proceedings*, ILC, 66th Session, Geneva, 1980, p. 32/19, paras. 188-191.

¹⁴ Act No. 1483 of 8 Oct. 1984, Legislative Series 1984-Gr. 2 (Act applies to workers employed in undertakings or enterprises bound by a contract of employment subject to private law and having the status of operative or employee).

for terminating the employment relationship of the workers concerned (section 14). The Employment (Equal Opportunities) Law, 1988, of *Israel* forbids an employer from discriminating between his employees or between persons seeking employment, on account of sex, being married or being parents in respect of acceptance for employment, terms of or advancement in employment, vocational training, dismissal or severance pay. The Government of *Cyprus* has referred to its ratification of the Termination of Employment Convention, 1982 (No. 158), which provides that the grounds of "race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin" shall not constitute valid reasons for termination (Article 5(d)). Though no mention is made of the question of discrimination for reason of family responsibilities in regard to access to employment, the Government of *Australia* has indicated its intention to amend the Sex Discrimination Act, 1984, to prohibit dismissal on the ground of family responsibilities. Such a provision is already contained in the 1984 Termination, Change and Redundancy Decision of the federal Conciliation and Arbitration Commission (now called the Industrial Relations Commission) which has flowed onto around 500 federal awards and some state awards.

124. Without always explaining specifically its practical application for the purposes of the Convention, legislation has been cited in some reports which would appear to be intended to prevent discrimination in employment in connection with a worker's potential family responsibilities. (It is recalled that the ground of "marital status" is included together with those of "family situation" and "family responsibilities" in Paragraph 16 of the Recommendation.) In this regard, a number of member States have referred to provisions which include "marital status" among the grounds on which discrimination in employment, including termination, is prohibited. Since these clauses appear for the most part in legislation concerning equality between women and men, it is more likely that they were designed to prohibit primarily discrimination against women who marry (and who might therefore be considered more likely to have children) than that they were intended also to protect women and men with family responsibilities. The question of discrimination on the grounds of "marital status" is, however, also relevant to the issue of actual family responsibilities in the case where the spouse of the worker is in need of care and support. In general terms, provisions prohibiting the dismissal of either a pregnant woman or a woman who is absent on maternity leave may also be regarded as measures to guard against discrimination in respect of a woman worker's potential family responsibilities. Questions concerning maternity leave are outside the scope of application of the instruments under review here, although these matters obviously constitute an important part of any national policy in the area of equality of opportunity and treatment.

125. Dismissal also appears to be often prohibited in those instances when employees take advantage of rights which are guaranteed under legislation and which are relevant to the exercise of their family responsibilities. The Government of *Canada* states that provisions in the employment standards legislation of Canadian jurisdictions granting and regulating the right to various family leaves, such as maternity, parental, adoption and child care, also provide employment security safeguards for persons who avail themselves of those leaves. In Quebec, the relevant employment standards provision prohibits an employer from disciplining or taking other measures against employees who have refused overtime because of their unavoidable obligations relating to the care, health or education of their minor children. In *Japan*, the Law concerning Child Care Leave and Other

Matters of 1991 prescribes that an employer shall not dismiss a worker for the reason that he or she has applied for or has taken a leave of absence for raising a child under the age of 1 year. The Government of the *Netherlands* has indicated that employees can never be dismissed on the grounds that they have taken parental leave. Though the source of this principle is not given, the Committee has noted that under the equality legislation of this country, which prohibits sex discrimination in connection with the termination of employment relationships, discrimination is defined as including indirect discrimination based on family circumstances or marital status. In *Poland*, the Labour Code provides that an establishment may not terminate a worker's contract of employment with notice while the worker is on leave or is absent from work for any valid reason, inter alia, if the worker must provide personal care for a child or other member of the family, if during this period the worker is entitled to a social insurance allowance.

126. Information has also been provided concerning the rights of workers with family responsibilities in the case of staff reductions or redundancy procedures. Several collective agreements in *Finland* stipulate that an employee's family responsibilities must be taken into account in determining the order in which the labour force may be reduced. In *Germany*, two recent decisions of the Federal Constitutional Court examined the question of the necessary staff reductions in the public service in the new *Länder* of Germany. While the Court upheld the legality of these reductions, it established exceptions regarding pregnant women and single parents by holding that the dismissals in those cases were inoperative since the 1990 Act concerning unification did not provide for any comprehensive, socially accepted supporting measures for these persons.

127. Finally, some reports reviewed make a general statement to the effect that "marital status" or "family responsibilities" do not constitute reasonable cause for refusing to employ or to dismiss workers. In the absence of further information, it is difficult to determine what protection is accorded to workers who may be refused employment or dismissed because of their family responsibilities. The Committee recalls, in this regard, that it has frequently had occasion to request further clarification on the application of Article 8 in the comments it has addressed to member States which have ratified the Convention. In particular, the Committee has requested information concerning any legislative provisions, collective agreements or court decisions to show that family responsibilities cannot constitute a basis for dismissal in employment.

CHAPTER IV

Terms and conditions of employment and social security

128. Traditional working time patterns characterized by fixed working days and penalties for breaks in service, based on the stereotype of a male breadwinner who relies on his partner to raise children and generally deal with the needs of the family, were not at first challenged when growing numbers of married women entered the workforce. Women workers instead did their best to accommodate their commitments at work and in the home, experiencing considerable stress and fatigue in the process. This included giving up their employment temporarily or working part time to look after a small child, and taking time off or using their annual leave entitlement for such purposes as dealing with administrative matters or taking a child to the doctor. At best, special arrangements, including leave to take care of a young child with a guarantee of return to employment, were introduced for women. However, both approaches had detrimental effects on their employment and promotion prospects.

129. The treatment of women under social security has also long been based on similar assumptions. Social security legislation is often based on a model of society in which the man is the head of the family and the woman benefits from protection derived only from her husband's entitlements. Social security should guarantee men and women equal protection and equal rights; it should not impose a model of society, but take into account the diversity of situations and individual choices. In this respect, the Committee recalls that, in its 1985 general report, it had suggested that consideration might be given to the adoption of new standards on equality of treatment for men and women in matters of social security. The Committee welcomes the initiative taken by the Office to convene a Tripartite Meeting of Experts on this subject in 1994, which will make recommendations concerning the adoption of these new standards.

130. With a view to promoting effective equality of opportunity and treatment between men and women workers, paragraph (b) of Article 4 of the Convention therefore calls for measures which take account of the needs of workers with family responsibilities in terms and conditions of employment and social security.

Terms and conditions of employment

131. Hours of work and the arrangement of working time are of central concern to workers with family responsibilities. Experience shows that special measures in these fields should be taken for the benefit of both men and women workers. Such measures enable workers better to reconcile their work and family responsibilities and encourage men to become more involved in family matters. However, under the pressure of social and economic change, there has been a growth in part-time employment and significant innovations in the arrangement of working time have been introduced over the last two decades, mostly in the industrialized countries. Many of these initiatives were prompted by economic needs rather than concern for the family responsibilities of workers. Nevertheless, family constraints have often been among the considerations taken into account in the design of such schemes. Absence from work to cope with family commitments has also been made easier in several countries.

132. These developments are reviewed below in the light of Paragraph 17 of the Recommendation, which provides that all measures compatible with national conditions and possibilities and with the legitimate interests of other workers should be taken to ensure that terms and conditions of employment are such as to enable workers with family responsibilities to reconcile their employment and family obligations.

General measures

133. While it is in itself an aim of social policy, the improvement of working conditions has been found in practice to be highly supportive of policies for the promotion of equal opportunities and treatment between men and women in employment. Paragraph 18 of the Recommendation points to the usefulness of general measures for improving working conditions and the quality of working life for all workers and calls for "(a) the progressive reduction of daily hours of work and the reduction of overtime; and (b) more flexible arrangements as regards working schedules, rest periods and holidays".

134. Indeed, hours of work are being reduced in a number of countries. While family considerations do not necessarily play a part in decisions to reduce working hours, such measures are none the less in line with the purpose of the aforementioned provision of the Recommendation. This said, it is interesting to note that, for instance, in *Australia*, the periods for which an employee is required to work may not exceed 40 hours in any period of six consecutive days.¹ In addition, several Awards and Industrial Agreements relating to commerce and offices provide for reduced working time from 38 to 37.5 hours per week. A number of other countries report that a reduction in hours of work was achieved recently, often within the framework of collective bargaining. It is foreseen that such a reduction will continue over the next few years, since many of these agreements are to be implemented over time. In *Cyprus*, several branch agreements negotiated in 1992 (e.g. in construction, clothing, metallurgy) plan to achieve a 38-hour week within the next six years. In *France*, where normal weekly hours of work were lowered to 39 in 1982,² several measures on the arrangement of hours of work were introduced in the framework

¹ Industrial Relations Act, 1988, s. 11.1.

² Section L.212-1 of the Labour Code modified by an Ordinance of 16 Jan. 1982.

of branch and enterprise level collective bargaining. In *Germany*, normal weekly hours as established by collective agreements now average 38. In *Ireland*, the 1989 Programme for National Recovery provided a Framework Agreement on Hours of Work within which employers and trade unions negotiated a reduction of one hour a week in working time without loss of pay where the working week was at or above 40 hours. This measure has now been implemented generally. In *Spain*, normal weekly hours were reduced from 42 to 40 in 1983.³

135. Overtime is regulated in most countries through one or several of the following means. A premium wage is paid or compensatory time off is given. Normally, the higher the number of overtime hours worked, the higher the premium becomes. In many countries there is a combination of daily, weekly and annual limits. In addition, authorization, consultation or notification may be required before overtime can be worked.

136. In some countries, the legislation and practice on overtime show a measure of concern for workers with family responsibilities. Thus, family responsibilities may constitute grounds for refusing to work overtime. In *Canada*, Quebec,⁴ an employer may not discipline or take other measures against an employee who has refused to work overtime because of his or her unavoidable obligations relating to the care, health or education of a minor child. In cases where overtime is worked, it may be compensated by giving time off rather than monetary compensation if a worker with family responsibilities so prefers. This is also the case in the Province of Alberta. In many countries, overtime may only be worked with the consent of the worker concerned.

137. The use of flexible hours has grown significantly in the industrialized countries. Under flexible hours systems, starting and finishing times and the time of the lunch break may be decided freely by the employees, provided all are present during core periods, which often consist of two to three hours in the morning and in the afternoon. Such schemes present obvious advantages for workers with family responsibilities, who may adapt their starting or finishing times to school hours, or use a time credit to take a half-day off to deal with family matters. The compressed work-week (where the statutory hours are worked over four days instead of five) is another form of working time arrangement that has been appearing in a number of countries over the last few years. While workers with family responsibilities may be happy of an additional day off work, for example to be with children on their mid-week break, the extra long days worked no doubt pose other problems.

138. In *Australia*, it is generally accepted that flexibility in working practices and conditions to meet the unexpected and routine needs of family life is both necessary to achieve a better balance between work and family and consistent with, or even integral to, productivity and efficiency, as leading companies have found. The Department of Industrial Relations, through the Work and Family Unit, is examining a number of specific types of flexible and innovative working arrangements. A "Workplace Guide to Work and Family", to be published in 1992-93, will help promote the examination of work and

³ Act No. 4/83 to fix the maximum level of hours of work at 40 hours per week and the minimum annual leave at 30 days, dated 29 June 1983 (*Boletín Oficial del Estado*, 30 June 1983, No. 155, p. 18307), Legislative Series 1983, Sp. 1.

⁴ Law on Labour Standards (Loi sur les normes du travail) (L.R.Q.C. N-1.1).

family issues in the workplace and encourage the implementation of family friendly practices. The Government of *Cyprus* reports the introduction of flexible working schedules on an experimental basis. In *France*⁵ and *Spain*,⁶ the introduction of flexible hours is subject to the agreement of the staff of the enterprise. The Government of *Panama* explains that trade unions are becoming more interested in flexible working time arrangements; as a result, these are increasingly being introduced in collective agreements. In *Sweden*, where section 5 of the new Equal Opportunities Act⁷ which came into force on 1 January 1992, calls on the employer to facilitate the combination, by both male and female employees, of gainful employment with parenthood, care is taken to provide "family friendly" schedules. The Government of *Ukraine* reports that flexible work schedules were introduced in 1984, but for working mothers only. The Government of the *United Kingdom* recognizes the popularity and importance of flexible working arrangements, and sees its role as encouraging good practices among employers, stressing that generous and flexible arrangements will enable them to recruit and retain staff. The Government also sets a good example as an employer. The Government of the *United States* reports that flexible scheduling arrangements include, in addition to flexitime and the compressed work-week, "flexiplace", an arrangement whereby the employee is permitted to work at home or at another approved site away from the firm for all or part of the work-week. According to an unpublished study carried out in 1989 by the Bureau of Labor Statistics, 18.4 per cent of federal employees and 12.2 per cent of private employees reported the availability of flexible schedules in the workplace. Only 8 per cent of the respondents in a private sector survey reported the availability of "flexiplace" working.

139. The idea behind Paragraph 18(b) of the Recommendation, which advocates flexibility when dealing with holidays, is that workers should be in a position to take their annual leave to coincide with part of their children's school holidays. Most reports are silent on this point, although the implementation of this provision is no doubt ensured, to a large extent, in practice, as indicated in the report of the Government of *Morocco*. Indeed, in *France* as in many other countries, when it is mandatory for all employees to take their annual leave at the same time, because the enterprise closes, the closure period is normally fixed to fall during the long school break. In *Australia*, many employees of the public sector are able to negotiate the timing of holidays and employers usually accommodate requests by employees to take annual leave during school holidays. In *Belgium*, the legislation⁸ provides that parents may go on leave during the school holidays, although there is nothing to ensure that both parents are entitled to take their holidays at the same time. In *Spain*,⁹ when annual leave is taken in turns, priority is accorded to workers with family responsibilities for taking their annual leave at the same time as

⁵ Labour Code, s. L.122-4-1.

⁶ Act No. 4 of 1983 modifying s. 36 of the Workers' Statute.

⁷ SFS 1991:433.

⁸ Royal Decree of 30 Mar. 1967, s. 64.2.

⁹ Act 4/83 of 29 June 1983 to amend s. 38.2 of the Workers' Statute.

school holidays. In *Tunisia*,¹⁰ civil servants with family responsibilities are accorded priority of choice concerning their annual leave period.

Shift and night work and transfers

140. Paragraph 19 of the Recommendation provides that the special needs of workers, including those arising out of family responsibilities, should be taken into account in shift-work arrangements and assignment to night work. Paragraph 20 encourages employers to consider family responsibilities, including the place of employment of the spouse and the possibilities of educating children when transferring workers from one locality to another.

141. The Governments of *Austria* and *Bangladesh* have reported that there are no statutory provisions reflecting concern for the needs of workers with family responsibilities in connection with assignment to shift or night work. However, in several countries, family needs may well be taken into consideration in practice, as reported by the Governments of *Australia*,¹¹ *Bangladesh* and *Cyprus*. Collective bargaining provisions in the *United States* introduce, under certain conditions, the possibility for shiftworkers to exchange shifts with colleagues. While this may help to respond to family needs on an ad hoc basis, such arrangements do not provide for the full adaptation to family needs that is suggested in the Recommendation.

142. In the *Australian* public sector, most transfers occur after staff members have applied for a position in another location; where transfers are compulsory, conditions, which normally include assistance for family members, are more generous. Examples were also given of measures taken by large companies to facilitate family arrangements on transfer. These include a minimum of three months' notice, job search assistance for spouses and financial support when the transfer makes it necessary for the employee's children to attend a boarding school. In *Austria*, while there is no statutory provision regarding transfers, an unemployed person may be required to take up employment outside his or her area of permanent or temporary residence only if this does not interfere with the maintenance of dependants.¹² The Government of *Finland* notes that relocation must normally be agreed upon by the employer and the worker concerned; in case of grave difficulties, just cause for termination might be invoked. In *Spain*,¹³ when a couple is employed by the same enterprise, the spouse of a transferred worker is eligible for transfer to the same duty station if a vacancy exists.

Part-time, temporary or homework

143. Workers with family responsibilities, and especially women, often resort to various forms of employment, such as part-time, temporary or home work, in an attempt to harmonize their obligations. Often, these are poorly protected; they entail discrimination

¹⁰ General Statute of the Public Service (*Statut général du personnel de la fonction publique*), s. 37.

¹¹ For example, in the Capital Territory, the Department of Health "makes a considerable effort to ensure that shift-work rosters reflect any particular requests from workers with family responsibilities".

¹² s. 9, para. 3, of the Unemployment Insurance Act.

¹³ Workers' Statute, s. 40.4.

in terms and conditions of employment and limited career prospects. With a view to protecting part-time, temporary and home workers, Paragraph 21 of the Recommendation provides that: (1) their terms and conditions of employment should be adequately regulated and supervised; (2) these terms, including social security coverage, should be equivalent to those of full-time and permanent workers respectively; in appropriate cases, the entitlements of the workers concerned should be calculated on a pro rata basis; (3) part-time workers should be given the option to obtain or return to full-time employment when a vacancy exists and when the circumstances which determined assignment to part-time employment no longer exist.

144. One of the most significant features of part-time work is its concentration among women participants in the labour force. A few reports contain information on the number of part-time workers. In *Austria*, they represent 19 per cent of all employed women and under 2 per cent of all employed men. In *Finland*, 7.6 per cent of workers are employed part time, three-quarters of whom are women. Information available to the Office indicates that, in 1990, a minimum of two-thirds of part-time workers were women, among the member countries of the Organization for Economic Cooperation and Development (OECD) countries, the figure reaching a maximum of nine out of ten in some of them.¹⁴ In the *United States*, approximately 20 per cent of the total workforce is employed part time and, in a 1990 survey of 837 major employers,¹⁵ 35 per cent of private sector employers reported the availability of part-time work schedules in the workplace. None of the reports discuss the number of hours worked by part-time workers, a point of interest since, as will be explained below, this may be a condition of eligibility for certain benefits. Neither do they indicate whether part-time workers have freely chosen to reduce their hours or have been prevented from taking full-time employment for reasons such as a lack of adequate child care.

145. Several reports¹⁶ note that measures have been taken recently to encourage the development of part-time work. Permanent part-time work was introduced in the *Australian* federal public sector in 1986. In the *United States*, almost every federal agency is required by law to provide a programme of part-time employment, including job-sharing (a form of part-time employment where two part-time employees voluntarily share the duties and responsibilities of one full-time position), which "promotes part-time career employment opportunities at all grade levels".¹⁷ Interest in this form of employment is also shown by the fact that, in several countries,¹⁸ new legislation is under consideration, or has been enacted over the past few years.¹⁹ In *Australia*, part-time work is regulated under several state laws or awards. In New South Wales, employers and employees may

¹⁴ ILO: *Part-time work*, Report V(1), ILC, 80th Session, 1993, p. 20.

¹⁵ Bureau of National Affairs, Inc.: "Work and Family: The Complete Resource Guide", VII-7, 1991.

¹⁶ Canada, Germany (especially in the public sector), Singapore (guidelines to be published), United States (mainly in the public sector).

¹⁷ 5 USC para. 3402.

¹⁸ Including Austria, Cyprus, Finland and the Netherlands.

¹⁹ Australia: Industrial Relations Act, 1991 (New South Wales), Public Sector Management and Employment Act, 1988 (Queensland); Belgium: Royal Decrees of 22 Mar. 1990, 18 June 1990 and 25 June 1990; Canada (Quebec): amendments to the Labour Standards Code (Loi sur les normes du travail (LRQ, C.N-1.1)).

now formalize part-time work where an award or agreement otherwise restricts the use of this form of work; pro rata entitlements and the right to return to one's former position may be negotiated. In Victoria, the ceiling of part-time work in the workforce established in agreements with the unions has been raised from 5 per cent to 10 per cent. The 1991-94 Employment Equity Strategies include efforts to design jobs in order to ensure that part-time positions contain diversified and rewarding work and provide scope for further skills development. In Queensland, part-time employees receive pro rata leave benefits, and in Tasmania, funding constraints would be the only obstacle to a part-timer returning to full-time employment. *Israeli* workers working shorter hours as agreed in employment contracts are entitled to wages corresponding to the hours worked²⁰ and are entitled to sick pay.²¹ In *Tunisia*, employees in the public service and the public sector now have the right to request to work half-time.²² Part-time workers receive half the remuneration which would be paid to a full-time worker in the same grade and category, and benefit from the same annual leave entitlement. Family allowances are paid in full. On the other hand, some countries²³ report that part-time work is not regulated, while others²⁴ do not discuss the issue at all.

146. In a few countries, measures have been introduced to give parents, and in some cases other workers with family responsibilities, the right to work on a part-time basis. Some provisions apply to all workers generally, while others are limited to a given sector, e.g. the public service. In *Japan*,²⁵ employers must, at the request of a worker who does not take child-care leave, accept that the worker concerned works part time or is provided with flexible working arrangements. The employer must refrain from assigning overtime to that worker or provide child-care facilities. In *Portugal*, parents of a child under the age of 12 are allowed to work part time. Unless otherwise agreed, working time should be half of the normal hours of work and the period of part-time work should be from six months to three years. Part-time work during this period counts proportionately towards seniority and entitles the worker to proportional remuneration and other benefits.²⁶ In *Spain*, the working day may be reduced to between a third and a half of its normal duration, for workers who have a child who is less than 6 years old or is mentally or physically handicapped.²⁷ The right of parents to apply for part-time work may be complemented by eligibility for a financial benefit. Such measures are usually linked with parental leave and are described below.

147. A few countries provide a legal definition of part-time work by reference to the number of hours worked. This has been fixed at 30 hours a week in *Finland*; less at

²⁰ Minimum Wage Law (1987), s. 2(b).

²¹ Sick Pay Law (1976), s. 2(b)(3), (4) and (5).

²² Decree No. 85-839 of 17 June 1985 and Decree No. 86-936 of 6 Oct. 1986.

²³ e.g. Bangladesh, Tunisia (in the private sector), United Kingdom, United States.

²⁴ Including Burundi, Cape Verde, Chad, Islamic Republic of Iran, Togo.

²⁵ Law concerning child-care leave and other matters, s. 10. The Child Care Leave Act (No. 76/1991) came into force on 1 Apr. 1992.

²⁶ Legislative Decree No. 503/80 of 20 Oct. 1980, *Diario da Republica*, Series I, No. 243, 20 Oct. 1980, p. 3498.

²⁷ Act 3/89 of 3 Mar., amending s. 37.4 of the Workers' Statute.

least one-fifth of the statutory weekly or monthly hours in *France*; and less than two-thirds of the usual working hours in the activity concerned in *Spain*. In the *United States*, where flexible working time arrangements are, in general, matters for negotiation in the employment relationship and a definition of part-time work is not provided for in legislation, the Government notes that a part-time employee is an employee who works fewer than 35 hours per week.

148. Whereas many countries do not define part-time work, it is frequent for laws or regulations dealing with specific aspects of employment to establish certain eligibility requirements or qualifying conditions, in the form of minimum earnings or a minimum number of hours worked, below which workers are not entitled to certain benefits, in particular social security benefits. Thresholds may also apply to the right to obtain a written contract, to protection against dismissal or redundancy, or to paid annual leave. Eligibility requirements may demand that a certain number of hours be worked each day and that there be continuous employment with the same employer for a given period. For example, in the *United Kingdom*, employment rights such as protection against dismissal or redundancy and maternity absence with the right to return to work are available to employees who are employed to work at least 16 hours a week and have completed two years' service with the same employer, or five years' service for those who work at least eight but less than 16 hours a week. Once the threshold has been attained, benefits and allowances are generally payable on a proportional basis.

149. In *Austria*, the earnings threshold for compulsory social security coverage was fixed at 2,924 Austrian schillings per month in 1992. Workers earning less were covered only by the employment injury scheme. In *Germany*, part-time workers are excluded from compulsory social security coverage if regular employment is carried out for less than 15 hours a week and the monthly remuneration does not regularly exceed 500 German marks (1992 figures). In other countries, such thresholds exist only for supplementary pension schemes such as, for instance, in *Canada*. Thresholds for unemployment protection are generally even higher and in a number of countries, such as *Australia*, *Belgium*, *Germany* and *New Zealand*, part-time workers working less than half-time are not eligible for unemployment benefit.

150. In some countries, part-time workers become entitled to benefits only after having worked for a certain period. In *France*, for example, in order to be entitled to medical care and sickness benefits in their own right, part-time workers must have worked for 200 hours in the previous three months or 120 hours in the preceding month. In order to qualify for a pension, minimum quarterly contributions have to be paid based at least on earnings of 200 times the hourly minimum wage. However, part-time workers who earn less than this may accumulate their earnings over a longer period in order to reach the required quarterly minimum.²⁸

151. A trend may be noted from several reports towards a lowering of existing thresholds. For example, in *Cyprus*, the legislation on termination of employment, which provides for the payment of compensation to employees who are dismissed unlawfully or on grounds of redundancy, protects employees who work at least 28 hours per week.

²⁸ cf. ILO: *Part-time work*, op. cit., pp. 42-49.

Within the framework of tripartite consultations for amendments to this legislation, an agreement was reached among the social partners to reduce to 24 the number of hours that must be worked. In *Germany*, the minimum weekly working time to be covered by the unemployment scheme was reduced from 20 to 18 hours in January 1988. In the *United Kingdom (Hong Kong)*, where entitlement to statutory benefits under the Employment Ordinance is determined according to whether the worker concerned has been working under a continuous contract for the same employer, the requirement of having worked not less than eight hours per week, three days a week for not less than four consecutive weeks was amended in 1990; all workers are now covered if they work not less than six hours a week for not less than four consecutive weeks. In *Ireland*, social security coverage was extended to part-time workers working less than 18 hours a week provided their earnings exceeded 25 Irish pounds per week. The Worker Protection (Regular Part-time Employees Act, 1991) applies to employees who have been in the service of an employer for at least 13 weeks; the threshold used to define regular part-time work was lowered from 18 hours to eight. The Act extends to regular part-time employees the benefits of the legislation relating to minimum notice and terms of employment, maternity leave, unfair dismissals, redundancy payments, insolvency, holiday entitlement and worker participation. In the *Netherlands*, the requirement of working for at least one-third of normal hours, which applied in respect of the minimum wage legislation, has been repealed.

152. The usual position adopted with regard to the payment of overtime is that no premium rates are payable to part-time workers until they have worked a full day. However, in many cases, collective agreements provide for the overtime premium rate to be payable from the first hour worked in excess of the part-time worker's agreed schedule. In *France*, "complementary hours" cannot exceed a third of the weekly or monthly hours set out by contract.

153. Arrangements to return to full-time employment are generally voluntary ones agreed to between the employer and the worker concerned, as in *Austria*, *Canada*, the *United Kingdom*. However, in a number of countries,²⁹ part-time workers are to be given priority for filling full-time positions that become vacant. In certain countries,³⁰ employers may be under a statutory obligation to inform part-time workers of full-time vacancies. Civil servants are more likely than private sector employees to be entitled to return to full-time employment. The Government of *Lithuania* reports that the legal mechanisms for returning to full-time work need to be revised.

154. Few reports discuss temporary work. Temporary workers would seem to be covered by general legislation and some social security benefits, except where qualifying periods are laid down, e.g. for annual leave. In a number of countries, the legislation specifies the time span after which a worker who has been engaged on a casual basis

²⁹ Including Finland, Germany (retail trades) and Japan (under the Guidelines for Matters to be Considered with Respect to the Treatment and Working Conditions of Part-time Workers, Ministry of Labour Notification No. 39 of 1989).

³⁰ e.g. France (where the employer must report at least once a year on part-time arrangements to the works council, indicating the reasons why assignment to full or part-time work was refused) and Germany.

becomes a permanent worker.³¹ In *Finland*, a fixed-term contract can be signed only under the conditions laid down in the Employment Contracts Act, i.e. when the nature of the work or the operation of the enterprise justify such a contract. In *Panama*, temporary work is mainly done in rural areas.

155. A few reports refer to the regulation of homework. In *Australia*, Federal and State Awards provide for security of employment and protection of terms and conditions of employment for outworkers, although in Queensland the Industrial Relations Act of 1990 does not provide a definition of homeworkers. In *Austria*,³² although a homeworker is not considered an "employee" under the legislation, delays for the completion of the work put out should be set out in such a way as to ensure that statutory hours of work are not exceeded. In *Austria* and *Germany*, homeworkers are also covered by pension insurance and the contribution is shared equally between them and the customer. In *Belarus*, a written contract must stipulate the responsibilities of both parties. Standards of output may be adapted to conditions in the home. Leave entitlements are regulated. In *Canada*, the situation varies in the different provincial jurisdictions. In British Columbia, the definition of "work" (which is likely to be examined in a forthcoming review of the legislation) excludes "time spent by an employee in his own living accommodation"; no regulations have been made to establish conditions of employment for homeworkers who are dependent contractors. In Manitoba and Newfoundland, statutory provisions apply to homeworkers, provided, in the latter province, that they fall within the definition of "employee". In Ontario, where homework is defined, homeworkers are covered only under the minimum wage, vacation with pay, pregnancy and parental leave provisions of the Employment Standards Act.³³ In a number of other countries,³⁴ a specific part of the Labour Code regulates homework. In *Japan*, the wages and occupational safety and health requirements of industrial homeworkers are regulated.³⁵

156. A number of reports state that part-time, temporary and home workers enjoy the same terms and conditions of employment as full-time, permanent workers.³⁶ Others³⁷ indicate that the terms and conditions of such workers are mutually agreed upon between the employers and workers concerned, by contract. In *Australia*, the Report of the Enquiry into Equal Opportunity and Equal Status for Women recommended that industrial awards be amended to include provision for permanent part-time employment and casual employment and to include entitlement to the same non-wage benefits, on a pro rata basis, available to permanent staff.

³¹ In Burundi, when the average number of days worked for the same employer reaches 12 days per month over a three-month period, or eight days over a 12-month period.

³² Home Work Act (1961 (BGB1 No. 105/1961)).

³³ RSO 1980, s. 137 as amended.

³⁴ e.g. Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, France, Mexico, Panama, Spain and Venezuela.

³⁵ Industrial Homework Act, No. 60 of 1970.

³⁶ Egypt, Cape Verde, Spain, Switzerland.

³⁷ Including Belgium (the contract must indicate the number and distribution of hours per week), Bolivia, Finland, France, Italy, Spain and Sweden.

Special leave entitlements

157. Paragraph 22(1) of the Recommendation provides that either parent should have the possibility, within a period immediately following maternity leave, of obtaining leave of absence (parental leave), without relinquishing employment and with rights resulting from employment being safeguarded. Subparagraph (2) leaves it to each country to determine the length of the period following maternity leave as well as the duration of the leave and its conditions, by one of the means referred to in Paragraph 3 of the Recommendation, including laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods. Under subparagraph (3), such leave may be introduced gradually, e.g. in a given sector, or for enterprises employing a certain number of workers. As provided for in Paragraph 4 of the Recommendation, gradual introduction does not mean that the granting of such leave may be restricted to one parent only.

158. As is discussed in the following paragraphs, a number of countries have made provision for the granting of parental leave and some have enacted legislation according employees the right to leave in order to care for sick children or other dependants. Comprehensive legislation which enables employees to take leave for a range of family situations is, however, unique. In the *United States*, the Family and Medical Leave Act³⁸ which came into force recently, requires employers (employing more than 50 people within a specified radius) to allow employees to 12 weeks' unpaid leave during any 12-month period because of the birth or adoption of a child, the placement of a foster child, the serious illness of a child, a spouse or a parent, or because of the employee's own serious health condition. The Act covers people who have worked for at least 12 months for the employer or for at least 1,250 hours during that period, though it allows employers to deny leave to the highest-paid 10 per cent of workers if such denial is necessary to prevent substantial and grievous economic injury to the business. Workers may substitute any accrued paid vacation leave, personal leave or family leave for any portion of the unpaid 12-week period. Or, employers may require the employee to substitute paid leave for the unpaid portion. In other words, if a company already grants six weeks of paid leave, the company must also grant six weeks of unpaid leave to reach the 12 weeks. The company does not have to offer the 12 weeks' unpaid leave after the paid leave has been taken. The Committee notes this development with interest, but would like to point out that the use of paid vacation leave to cover absence for family reasons, an option under the Act, is not in conformity with the principles of ILO standards concerning paid annual leave which aim at enabling employed persons to take rest and relaxation during such periods.³⁹

³⁸ Family and Medical Leave Act 1993 (PL 103-3), signed into law by the President on 3 February 1993.

³⁹ e.g. the Holidays with Pay Convention (Revised), 1970 (No. 132).

159. Legislation is reported to provide for parental leave in *Australia*,⁴⁰ *Austria*,⁴¹ *Canada*,⁴² *Israel*,⁴³ *Japan*,⁴⁴ the *Netherlands*,⁴⁵ *New Zealand*,⁴⁶ *Norway*,⁴⁷ *Portugal*,⁴⁸ *Spain*,⁴⁹ *Sweden*⁵⁰ and in the *United States*.⁵¹ However, in some countries,⁵² a father may only take such leave if the mother foregoes her right to leave for part or all of it.⁵³ In *Austria*, fathers are entitled to parental leave when the occupation of the self-employed mother prevents her from looking after the child. The Government of *Egypt* reports that public servants may be granted unpaid leave for reasons invoked by themselves and which the public authority accepts. Such a measure, which is in force in several other countries, cannot, however, be considered as giving effect to this provision of the Recommendation, which aims to establish that parental responsibilities are a just cause for obtaining leave. Finally, other countries report that parental leave is not foreseen in the legislation.⁵⁴ The Government of the *United Kingdom* notes that a variety of voluntary arrangements for parental leave exist in the country, but there is no relevant statutory provision.

⁴⁰ The Standard Parental Leave Award Clause covers maternity, paternity and adoption leave and employees' entitlement to work part time in connection with the birth or adoption of a child. The four sections can operate as separate entitlements (as in the case of a woman taking maternity leave) or with interaction between the entitlements (e.g. a woman taking maternity leave and sharing the period of leave with her partner, or a male and a female employee using a period of leave followed by a period of part-time work).

⁴¹ Maternity Protection Act (BGB1 No. 221/1979), s. 15, and Parental Leave Act (BGB1 No. 251/1989).

⁴² At federal level, the Canada Labour Code provides for up to 24 weeks of unpaid child-care leave that can be taken by either parent, whether natural or adoptive, or shared by both. In the provinces, the length of such leave varies between 34 weeks (Quebec, to be taken as long as the child has not reached the age of compulsory schooling) and eight weeks (Alberta).

⁴³ Employment of Women Act (5734 - 1964), ss. 6-7; Employment (Equal Opportunities) Act (5748 - 1988), s. 4.

⁴⁴ Law concerning child-care leave and other matters, No. 76 of 1991, together with its enforcement regulations (Ministry of Labour Ordinance No. 25 of 1991), and corresponding texts applicable to Diet employees, mariners, national public servants, national public authority, local public servants and judges.

⁴⁵ Act No. 562 of 21 Nov. 1990 concerning parental leave (Bulletin of Acts, Orders and Decrees). The Act came into force on 1 Jan. 1991.

⁴⁶ Parental Leave and Employment Protection Act, 1987.

⁴⁷ Act relating to workers' protection and the working environment of 4 Feb. 1977 (s. 65).

⁴⁸ Act No. 4/84 of 5 Apr. 1984 on maternity and paternity protection (*Diário da República*, No. 81, Series 1, 5 Apr. 1984, pp. 1149-1153) as amended by Legislative Decree No. 154/88, dated 29 Apr. 1988 (*Diário da República*, No. 99, Series 1, 29 Apr. 1988, pp. 1740-1742); Legislative Decree No. 136/85 of 3 May regulating implementation of Act No. 4/84, as amended by Legislative Decree No. 154/88, dated 29 Apr. 1988 (*Diário da República*, No. 99, Series A, 29 Apr. 1988, pp. 1740-1742).

⁴⁹ Workers' Statute of 10 Mar. 1980 (*Boletín Oficial del Estado*, No. 64, 14 Mar. 1980), last amended by Act No. 3/89 of 3 Mar. 1989.

⁵⁰ Child Care Leave Act of 1 June 1978 (*Svensk Författningssamling* No. 410, 1978); an amendment effective from 1 July 1992 extends parental leave to adoptive parents.

⁵¹ See para. 158 above.

⁵² For example Austria and Belarus. Similar provisions were under consideration in Chile at the time of reporting.

⁵³ The Government of Norway reports that the idea of giving fathers a personal right to parental leave has so far been rejected.

⁵⁴ Including Burundi, Cape Verde, Cyprus, United Kingdom (Hong Kong), Mexico, United Kingdom (Montserrat), the Philippines, Rwanda, Saudi Arabia, Sudan, Switzerland, Sri Lanka and United Republic of Tanzania.

160. The duration of parental leave varies. In *Australia*, either parent may take up to 52 weeks of unpaid leave so as to assume the role of primary care giver, and the leave cannot extend beyond the child's first birthday or beyond the first anniversary of the child's arrival in the home in the case of adoption. Both parents may not take leave at the same time except for one week at the time of birth. In *New Zealand* and *Norway* as well, parental leave covers the first year of the child. In *Canada*, the duration of parental leave varies from province to province between 12 and 44 weeks. In *Finland*, the 170 days subsequent to the maternity leave period during which an allowance is payable may be taken by the father or shared between both parents. In *Spain*,⁵⁵ the last four weeks of maternity leave may be used by fathers, provided the health of the mother allows her to resume work. In *Sweden*, either parent has a statutory right to leave of absence from work until the child is 18 months old. Parental leave may be available until the end of the child's second year of life (*Austria*), until the child is 3 (*France* and *Spain*). In *Finland*, parents may also take child-care leave after parental leave, until the child is 3 years old.

161. Parental leave is not normally remunerated, but, as discussed below in the section on social security, workers may receive allowances.

162. Certain countries provide for eligibility requirements for parental leave. Thus, in *Israel*, where workers may also request leave due to family illness, they must have worked with the same employer or at the same place of employment for a period of not less than 24 months. The leave period cannot exceed a period equal to one-fourth of the number of months worked, with a maximum period of 12 months. In *France*, workers must have worked for at least a year at the time of the birth of the child; in enterprises employing fewer than ten workers, the employer can refuse to grant parental leave on "just grounds".

163. The safeguarding of rights resulting from employment is treated in different ways in different countries. Protection against dismissal is ensured in a number of countries including *Austria* (up to four weeks after the worker resumes work), *Finland*, *France*, *Germany*, *Japan*, *New Zealand*, *Norway* and *Sweden*. In *Spain*, workers on unpaid leave have a prior claim to reinstatement. Where special benefits are payable on a pro rata basis, they are normally not due for periods not worked, as in *Austria*. As far as entitlements related to the length of service are concerned, periods of parental leave are taken into account in some countries (e.g. *Canada*, *Spain* during the first year), and in others not (e.g. *Austria*). In *France*, they count for half. However, in several countries (including *Australia*, *Austria* and *Germany*), the provisions of collective agreements may be more generous. The effect of periods of parental leave on the calculation of pension benefits is discussed below in the section on social security.

164. Regarding the period during which the leave may be taken, this is generally to start immediately after the end of maternity leave. Except in the countries where parental leave includes maternity leave (e.g. *Australia* and the Scandinavian countries), the period to be taken by the father or the mother is not regulated. The legislation usually

⁵⁵ Act No. 3/89 of 3 Mar. 1989.

spells out the amount of notice that workers must give to their employer of their intention of taking parental leave and of resuming work at the end of such leave.

165. As mentioned before, parental leave may be combined with part-time work arrangements. In *Austria*, parents may apply to work on a part-time basis, either together during the child's second year or one parent during the child's second and third year. A part-time agreement of this kind must be agreed on with the employer, but legal steps can be taken to obtain the employer's consent when the latter does not have material grounds for refusing the arrangement. In *France*, an Act of 1984⁵⁶ provides that parents may work half-time as an alternative for parental leave. All employees who have worked for at least one year prior to the date of birth are eligible, although in enterprises with fewer than 100 workers, the request can be refused if it is considered to be prejudicial to the smooth running of the enterprise. Half-time work for child care is counted as full-time work for seniority purposes, and the employee has a right to be retrained if there have been changes in techniques and methods of work during the period the employee was working part time. Since 1990,⁵⁷ *Finnish* parents may work on a part-time basis one at a time, with working time reduced to six hours a day or 30 hours a week until the end of the year in which the child starts compulsory schooling. In addition to proportional pay for the time worked, the worker receives state compensation amounting to a quarter of the home care allowance. In *Sweden*, instead of taking full-time parental leave with financial compensation during the child's first year, one of the parents may continue to work part time on proportional pay and receive financial compensation for the time that is not worked.⁵⁸

166. In *Belgium*, although parental leave *per se* does not exist, a system of "career breaks" was introduced in 1985.⁵⁹ Workers employed in the same enterprise for at least 12 months can request total interruption of their professional career or half-time work. Interruptions in service are subject to the employer's agreement and an allocation is paid if the worker is replaced by a previously unemployed person. The measure proved very popular, but its use by women to accommodate family needs caused debate. In 1990, the minimum length of the break, which was six months, was reduced to 12 weeks when the break was taken for child-care purposes, and fathers were also entitled to benefit from the provision.⁶⁰

167. Few countries provided detailed statistics of the numbers of men and women who use parental leave. In *Austria*, at the time of reporting, barely 500 men were on parental leave, as opposed to 71,300 women. In *Finland*, about 4 per cent of fathers exercised their right to parental leave in 1990, although 40 per cent took a few days'

⁵⁶ Act No. 84-9 of 4 Jan. 1984 to amend the Labour Code concerning parental leave and half-time work to care for a child (*Journal officiel* No. 4, 5 Jan. 1984, p. 174); and Act No. 86-1307 of 29 Dec. 1986 concerning the duration of parental leave and half-time work to care for a child (*Journal officiel* No. 302, 30 Dec. 1986, p. 15/771).

⁵⁷ Act No. 320 of 30 Apr. 1970 concerning contracts of employment (as amended).

⁵⁸ Fact Sheets on Sweden: Child Care in Sweden, published by the Swedish Institute (May 1992), Box 7434, S-103 91, Stockholm.

⁵⁹ Economic Recovery Act containing social provisions (22 Jan. 1985).

⁶⁰ Royal Decree of 13 Aug. 1990.

paternity leave. The Government of *Israel* indicates that many more women than men avail themselves of the possibility. In *Sweden*, fathers have steadily increased their number of benefit days during the child's first year.⁶¹ Under section 10 of the Equal Opportunities Act,⁶² an employer with more than ten employees has to draw up an annual equal opportunities plan including measures to facilitate the taking of parental leave by men.

168. A large number of reports refer to the measures taken to provide maternity leave and nursing breaks or adapt working conditions for women workers or working mothers, for example by prohibiting that they be assigned to shift or night work or offering them the possibility of taking periods of unpaid leave to care for a newborn child. These measures are not summarized here, nor are the associated social security benefits discussed in the next section. Maternity protection is governed by other ILO standards.⁶³ A report on the application of these Conventions was submitted to the Governing Body at its 219th Session (February-March 1982). The Office is currently carrying out a survey of maternity protection legislation and practice in member States. In addition, measures for the protection of maternity have quite a different purpose to that of the standards dealt with in this report. Their aim is to recognize a biological and social function which is specifically female and to ensure on the one hand the protection of the health of future mothers and their children, and, on the other, the protection of women against discrimination on the grounds of their childbearing role.

169. Furthermore, where the possibility of taking extended leave to care for a young child is restricted to the mother only, as was foreseen in the Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123), this may be, in the long run, to the detriment of women workers' career opportunities. It also constitutes discrimination against men. Such measures are in fact in direct contradiction with the standards on workers with family responsibilities. Not only was Recommendation No. 123 superseded by the Recommendation here surveyed, but the possibility of applying the new standards by stages, which is provided for under their terms, refers to the measures to be introduced and not to persons. Whatever measures are introduced "shall apply in any case to all the workers covered by Article 1, paragraph 1" (Article 10 of the Convention; a similar provision is contained in Paragraph 4 of the Recommendation).

Leave in case of illness in the family

170. Paragraph 23 of the Recommendation provides for a worker, man or woman, with family responsibilities, to take leave in case of illness in the family: subparagraph (1) deals with leave in the case of the illness of a child, and subparagraph (2) deals with leave in the case of the illness of another member of the worker's family who clearly needs that worker's care and support. Subparagraph (3) provides that the duration and

⁶¹ Fact Sheets on Sweden: Child Care in Sweden, published by the Swedish Institute (May 1992), Box 7434, S-103 91, Stockholm.

⁶² SFS 1991 (433).

⁶³ Maternity Protection Convention, 1919 (No. 3); Social Security (Minimum Standards) Convention, 1952 (No. 102); Maternity Protection Convention (Revised), 1952 (No. 103); Maternity Protection Recommendation, 1952 (No. 95).

conditions of such leave should be determined in each country by one of the means referred to in Paragraph 3 of the Recommendation.

171. The right to leave in order to care for sick children (usually involving a few days of absence) exists in a number of countries. Three situations may be observed. In some countries, workers have the right, under legislation or collective agreements, to a few days of paid leave for this purpose. For example, in *Finland* a worker with a child under 10 years of age may be absent for up to four days per instance of illness. In a certain number of countries, the employer has to grant the days off, while the health insurance covers the wages and salaries. In *Sweden*, parents are entitled to up to 90 days per child annually up to and including the year in which the child is 12 years old. Parents of children aged 4-12 can also take time off in order to take part in activities at the child's school. Such absences are covered by parental insurance. In other countries, the legislation or collective agreements expressly provide that a fraction of the number of days a worker is entitled to sick leave may be used in the case of the illness of a child.⁶⁴ This amounts to legalizing what often happens in practice. There are also countries (e.g. *Poland*, *Singapore*), where the relevant provision of the Recommendation is not implemented, since only mothers are eligible for such leave.

172. In some countries, the requirements of subparagraphs 1 and 2 are dealt with simultaneously, and workers are entitled to a few days of leave per year to take care of a sick dependant in the same household (child or family member). In *Austria*,⁶⁵ paid nursing leave of up to the maximum weekly working time per year is available. In other countries,⁶⁶ compassionate leave may be used for this purpose. Finally, some reports⁶⁷ indicate that no such leave is available. In a number of countries (e.g. *Canada*, *Panama*, *San Marino*, the *United Kingdom* and the *United States*), emergency leave is, or is becoming, available under collective agreements or enterprise practices. In the latter case, as noted in the report submitted by the Government of *Canada*, the granting of such leave may be subject to the discretion of an employee's supervisor. The Government of *Cyprus* reports that the possibility of granting family illness leave is being examined by a technical committee of the Labour Advisory Board which has been set up to consider whether ratification of the Workers with Family Responsibilities Convention, 1981 (No. 156), is feasible in view of the social and economic conditions in the country.

⁶⁴ e.g. Bermuda, Canada.

⁶⁵ s. 16 of the Holiday Leave Act (BGBI No. 393/1976).

⁶⁶ e.g. Honduras, where paid emergency leave of two days per month and up to 15 days per year must be granted by the employer; Mexico, where civil servants may request paid leave of up to three days per month without exceeding three times a year; New Zealand, where the Employment Contracts Act of May 1991 has introduced a minimum entitlement for all employees of five days special leave per year, which may be taken to care for a dependent relative; Spain, where s. 37.3(b) of the Workers' Statute provides for paid leave of two days (or four if the worker needs to travel) in case of illness in the family.

⁶⁷ e.g. United Kingdom (Hong Kong).

Social security and fiscal measures

173. Paragraph 27 of the Recommendation provides that social security benefits, tax relief, or other appropriate measures consistent with national policy should, when necessary, be available to workers with family responsibilities. The reports submitted reveal that this provision has not always been clearly understood. As indicated earlier in this report, the standards under review aim at helping workers with family responsibilities to combine employment and family responsibilities in order to promote equality of opportunity and treatment in employment between men and women and between workers with family responsibilities and other workers. Paragraph 27 of the Recommendation refers to fiscal measures, which can have a significant influence on the decision of parents to take up work. Taxation systems should be designed so as not to discriminate against couples where both spouses work. Several countries provide either separate taxation or a system of family splitting, under which the family's overall income is added up and divided by the number of family members. Other countries provide for an option which allows the workers concerned to decide which system is most suitable in their circumstances.

174. A number of countries⁶⁸ report specific tax relief measures allowing tax deductions for the costs involved in employing domestic staff, using child-care services and facilities and caring for a disabled relative. In *France*, social security contributions for persons employed in the home to care for small children are covered by the Family Allowances Fund.⁶⁹

175. Paragraph 28 of the Recommendation provides that, during the leave of absence referred to in Paragraphs 22 and 23, the workers concerned may, in conformity with national conditions and practice, and by one of the means referred to in Paragraph 3 of the Recommendation, be protected by social security. In practice such protection may involve either the payment of wage replacement benefits or the maintenance of social security coverage for various contingencies or both.

176. Where legislation or collective agreements provide for paid family leave, including parental leave and leave to care for sick children or family members, leave periods are generally equated to periods of paid employment; social security rights are then fully safeguarded. When family leave is unpaid, as parental leave mostly is, benefits may be financed either out of tax revenues, as in *Germany*, or by a social insurance fund. This method is used in the Nordic countries, where parental insurance is an integral part of the health insurance system. In *Austria*, the benefits are granted under the unemployment insurance. In *Austria* and *Germany*, the parental allowance is a flat-rate benefit. In *Austria*, the benefit amounts to 5,159 Austrian schillings per month for a married couple or 7,717 Austrian schillings for a single parent, up to the second year of the child. In *Germany*, the benefit is 600 German marks, up to the third year; from the seventh month on, the benefit is subject to an income test. In *Sweden*, in contrast, the

⁶⁸ Including France, Germany, Singapore, Sri Lanka and the United States.

⁶⁹ ss. L-841 and L-842 of the Social Security Code (Code de la Sécurité sociale).

allowance is related to previous covered earnings.⁷⁰ In *Norway*, a parental allowance, which is equal to cash sickness benefits, is payable to the father for up to 72 days, but only when the mother resumes employment before the end of the 24-week period during which maternity allowance is payable to her and the father ceases work to care for the child. The situation is similar in *Finland*, where parental allowance can be paid to the father for 170 working days, when the mother cedes her right to him. In *France*, parental education allowance is payable under certain conditions, and is only available from the third child on, until age 3.

177. Health care coverage is often provided free of charge during parental leave. In some countries,⁷¹ medical care is provided to all residents and the fact of being on leave has no implication on eligibility. Where medical care is provided by a sickness insurance scheme, the insurance of the worker on leave is maintained free of charge in *France* (for one year)⁷² and in *Germany* (for three years).⁷³ In *Austria*, dependent spouses may be covered by the sickness insurance of their partners; however, this arrangement obliges single parents to take out voluntary insurance.

178. A recent trend towards crediting child-rearing periods in pension schemes may be observed in a number of Western European countries. Such a measure was frequent in the former socialist countries of Central and Eastern Europe, where, however, it concerned leave periods available only to women. In *Poland*, where fathers are entitled to use parental leave in certain cases, time off for child care is credited in the pension scheme.

179. The decision to credit child-rearing periods for pension purposes may respond to various policy options. The intention may be to recognize the valuable contribution made by child-rearing parents to society as a whole. It may be to extend social security protection to workers with family responsibilities. It may also be to protect such workers from restrictive measures. In *Germany*, for instance, a 1984 reform limited eligibility to invalidity benefits to those who had worked in insured employment for at least three of the five years preceding the contingency; however, any period a parent had spent out of employment in caring for a child under five years of age was disregarded in the five-year qualifying period.

180. In a number of countries, child-rearing may be compensated by increased benefits. In *France*, the retirement pension is increased by 10 per cent if either spouse has raised at least three children.⁷⁴ However, such measures are rather an exception. Most countries use the technique of equating periods of parental leave, fully or in part, to insurance periods, as, for example, in *Austria* (two years), *France* (three years), *Germany* (three years for children born as from 1992), *Italy* (six months), *Portugal* (two years)

⁷⁰ The allowance equals sickness benefit for the first 360 days, i.e. 65 per cent for the first three days, 80 per cent up to the 90th day, 90 per cent for the following 270 days and SKr60 for the remaining 90 days.

⁷¹ Including Australia, Ireland, Italy, New Zealand, the United Kingdom and the Nordic countries (with the exception of Norway).

⁷² s. L.161-9 of the Social Security Code (Code de la Sécurité sociale).

⁷³ s. 192 of the Social Code (Book 5).

⁷⁴ Social Security Code, s. L.351-12; in addition, when an insured woman has raised a child, the insurance period is extended by two years.

or *Spain*.⁷⁵ Where the amount of benefits depends not only on (selected) final earnings, but on the overall earnings during the whole working life, a specific value may be attributed to such credited periods,⁷⁶ or they may be deleted from the calculation of the average.⁷⁷ Child-care periods are not always credited free of charge; in some countries (c.g. *Austria*),⁷⁸ the law confines itself to allowing or facilitating voluntary insurance, while in *Luxembourg*, the State pays the required contributions (for up to two years).

181. A completely different approach has been adopted in *Japan*, where employers continue to pay their share of social security contributions during the period of parental leave. Many collective agreements provide that employers also pay the employee's share, but are entitled to recover this once the parent has resumed work. However, the employer often waives such recovery under certain conditions (e.g. when employees return to their previous post after parental leave and continue to work in that post for a minimum period).⁷⁹

182. The real impact of credited child-rearing periods on the level of benefits depends to a large extent on the pension formula. Where the range of benefits is extremely limited by minimum or maximum levels, or where only flat-rate benefits are provided, the impact is much less than in schemes which are strictly related to earnings and contribution. On the other hand, schemes providing uniform basic benefits tend to be less disadvantageous for workers who interrupt their occupational activity to bring up young children, in particular where those benefits are only based on a residence test.⁸⁰ However, most of these schemes are supplemented by a second tier of benefits related to employment. In view of the private nature of such schemes, it is particularly difficult to impose specific regulations. In *Sweden*, where the earnings-related supplementary pension scheme (ATP) is also regulated by law, periods of parental leave have been credited since 1982.

183. When workers cannot be reintegrated after parental leave, the availability of unemployment benefits becomes an important consideration. Article 26 of the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) explicitly provides for unemployment coverage of, among others, those workers who are looking for a work "after a period devoted to bringing up a child or caring for someone who is sick, disabled or elderly" (subparagraph (d)). In *Germany*, periods of parental leave are

⁷⁵ e.g. *Austria* (s. 227(1), No. 4 of the General Social Insurance Code [Allgemeines Sozialversicherungsgesetz]; *France* (calculation of an old-age pension according to s. L.351-5 of the Social Security Code, whenever the 10 per cent increment cannot be granted); *Germany* (s. 56 of the Social Code (Book 6)); *Portugal* (ss. 14 and 21 of Act No. 4/84 of 5.4.1984); *Spain* (ss. 16 and 17 of the Royal Decree No. 356/1991 of 15.3.1991).

⁷⁶ In *Germany*, where child-rearing periods are also attributed to non-working housewives or men, their value corresponds to 75 per cent of average earnings (s. 70(2) of Social Code (Book 6)).

⁷⁷ In the United Kingdom, under the State Earnings-Related Pension Scheme (SERPS), years of child-care are not counted at all when calculating the figure for revalued average earnings. The same technique is used in *Canada* under the earnings-related plan, where specified months of low and zero earnings (including child-rearing periods up to the age of seven) can be deleted from the calculation of average life-time earnings.

⁷⁸ During the third year of parental leave, parents who want to safeguard full coverage under a voluntary insurance scheme are required to pay the whole contribution, i.e. including the employer's share.

⁷⁹ See Act No. 76 of 15.5.1991 respecting child-care leave.

⁸⁰ Including in *Australia*, *Canada*, the *Netherlands*, *New Zealand*, the *Seychelles* and the *Nordic countries*.

counted for entitlement to unemployment benefits. It seems that other countries have adopted similar measures, although the reports examined did not provide specific information in this respect.⁸¹

184. Child-rearing periods may also influence the duration of payment of unemployment benefits. For example, in the *Netherlands*, time spent on child-care leave is included in prior employment for the purpose of calculating the qualifying period. Child-rearing periods are counted at full rate, when the child is under 6, and at half rate for a child aged 6 to 12.

185. As indicated in paragraphs 170-172, leave of absence is available in a number of countries in the case of the illness of a dependent child or of another member of the worker's immediate family who needs that worker's care or support (Paragraph 23 of the Recommendation). Where such leave is unpaid, a number of countries provide sickness benefits for a limited period to replace, at least partially, lost income. Such benefits are available for one week per year in *Austria*, 30 days per year for children under age 10 or 15 days per year for children over 10 in *Portugal*, and 90 days per year for children under 12 in *Sweden*. The period during which the benefit is payable is often extended in the case of single parents, as in *Germany*, where single parents are entitled to 20 days (instead of ten) for children under age 12. The same applies in *Norway*, in connection with children up to 10 years of age. In *Austria*, or *Portugal*, the benefit is also payable in case of the illness of a relative, and in *Sweden*, 30 additional days are available for the care of relatives.

186. Leave for family reasons is usually limited to a few days while, especially in the case of handicapped persons, long-term care may be needed. Some countries are considering, or have already introduced, particular benefits for persons caring for disabled relatives. In *Norway*, for example, the sickness benefit during child-care leave is extended to 20 days (40 days for single parents) when the person has the care of a chronically sick or functionally handicapped child. Some countries grant a specific carer's pension (*Australia*)⁸² or an invalid care allowance (*United Kingdom*).⁸³ However, where such benefits are paid only to providers of care who stop being gainfully employed (as in the examples just given) they are not relevant to the application of the instruments since they do not help to combine work with family responsibility.

187. Paragraph 29 of the Recommendation stipulates that a worker should not be excluded from social security coverage by reference to the occupational activity of his or her spouse or from entitlement to benefits arising from that activity. It would appear that much progress has been made in this direction since the adoption of Convention No. 156 and Recommendation No. 165. A number of reports (including those from *Angola*, *Austria* and *Sweden*) emphasize that social security protection is provided to all workers irrespective of their family responsibilities. The same seems to apply in other countries, even if they have not mentioned it explicitly. In most countries where legislation had

⁸¹ Unemployment benefits for workers who have interrupted employment to bring up children are provided, for example, in *Austria*, *Belgium*, *France*, *Japan* and *Sweden*: cf. "Employment Promotion and Social Security", Report IV(1), ILC, 73rd Session, Geneva 1987, table 5.

⁸² Australian Social Security Act, s. 198.

⁸³ British Social Security Act, 1975, s. 37.

previously discriminated against, for example, married women by excluding them from social security coverage, measures have now been taken to correct the situation and to confer on married women workers full status as insured persons in their own right. However, in *Malta*, married women are still exempted from social insurance coverage by virtue of section 6(a) of the Social Security Act, 1987.

188. Family employment poses special problems. In a number of countries, including *Belize*, *Cyprus*, *Ireland*, *Pakistan*, the *Philippines* and *Spain*, an employer's spouse and children living under his or her roof may be excluded from social security coverage as far as they work for a family undertaking. In other countries, the exclusion is limited to unpaid family labour (e.g. *Barbados*, *Haiti*, *Jamaica*). Such an exclusion generally affects women to a greater extent than men. While a number of ILO standards on social security⁸⁴ actually permit such exclusions they are not necessarily recommended.⁸⁵ The rationale for this measure is that it is difficult to assess the amount of work which is done for the home and for the family enterprise, and to estimate the value of the latter, since there is frequently no cash remuneration. In addition, there may be a risk of collusion between the spouses with a view to obtaining the highest possible return for the contributions paid. Since a large number of countries do not provide for such an exclusion, it would seem that these difficulties are either acceptable or can be contained through appropriate safeguards or controls.⁸⁶

189. A number of social security benefits are subject to a means or income test, under which, as a rule, the income taken into account is that of the whole household rather than of the individual beneficiary. This may mean that benefits are denied to a couple because of the spouse's income. The technique pursues a legitimate aim, which is to target benefits to those in need. Such targeting of benefits can generally be regarded as in line with national conditions and possibilities. In addition, means-tested benefits which take the whole family income into account are, as a general rule, increased for beneficiaries who have family responsibilities.

190. Paragraph 30 of the Recommendation provides that the family responsibilities of a worker should be an element to be taken into account in determining whether employment offered is suitable in the sense that refusal of the offer may lead to loss or suspension of unemployment benefit. In particular, where the employment offered involves moving to another locality, the considerations to be taken into account should include the place of employment of the spouse and the possibilities of educating children.⁸⁷

⁸⁴ See for instance Conventions Nos. 17, 25, 35, 36, 37, 38, 39, 40, 44, 56, 121, 128 and 130.

⁸⁵ Recommendation No. 134, Para. 2(b).

⁸⁶ In France, for instance, cooperating spouses are covered, provided their wage corresponds to the wage paid normally in their professional category or, where a comparison is not possible, to the minimum wage.

⁸⁷ The concept of "suitable employment" is contained in Article 10 of the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), which defines full unemployment as "the loss of earnings due to inability to obtain suitable employment". Article 21 of the Convention includes in the criteria to be taken into account in assessing the suitability of employment "the impact of the employment in question on [the unemployed persons'] personal and family situation". Paragraph 14 of the accompanying Recommendation (No. 176) provides that "the family responsibilities of the person concerned" shall be one of the elements to be taken into account when assessing if "the refusal of the employment is not unreasonable".

191. The report from the Government of *Austria* refers to a relevant provision in the country's Unemployment Insurance Act.⁸⁸ In *Germany*, the question is regulated in an Ordinance issued by the governing body of the Federal Employment Institution.⁸⁹ In other countries, such as *Cyprus* and *France*, the reports indicate that, even though there are no explicit regulations, family responsibilities are actually taken into account when assessing the availability for placement of an unemployed person.

⁸⁸ Unemployment Insurance Act, s. 9(3).

⁸⁹ See ss. 1, 4, 7 and 13 of the Ordinance of the Federal Employment Institution, 16 Mar. 1982.

CHAPTER V

Child-care and family services and facilities and help in the exercise of family responsibilities

192. Measures taken to make the workplace more responsive to the needs of workers with family responsibilities can go a long way toward improving the employment and career opportunities of the workers concerned. But these cannot suffice. If satisfactory arrangements cannot be made for their families to be cared for adequately despite the time they devote to work, persons who have family responsibilities will be effectively prevented from joining the workforce. If the time and energy required to perform household tasks result in undue fatigue and stress, they will be disadvantaged on the job. Indeed, as pointed out during the Conference discussion which preceded the adoption of the standards, the aim of promoting equality of treatment between men and women with family responsibilities, and between such workers and other workers, should be achieved not only in terms of working conditions and vocational training but also in terms of the facilities available to them to discharge their responsibilities in all aspects of their lives. The view was expressed that the improvement of working and living conditions for workers with family responsibilities should be sought by adequate social policies, including measures to be provided by the public authorities.

193. Article 5 of Convention No. 156 thus calls for all measures compatible with national conditions and possibilities to be taken: (a) to take account of the needs of workers with family responsibilities in community planning, and (b) to develop or promote community services, public or private, such as child-care and family services and facilities. Part V of Recommendation No. 165 (Paragraphs 24 to 26) suggests various measures, mentioned below, that may be taken to this end. In view of the possible impact of daily family chores on workers' performance, Part VII of the Recommendation (Paragraphs 32 to 34) outlines a further series of measures for the improvement of living conditions, which are particularly helpful for workers with family responsibilities.

194. While the reports examined by the Committee indicate that there has been significant progress in a number of countries as concerns the provision of child-care facilities, the information available appears to indicate that such facilities have not necessarily been established in response to the needs of workers with family responsibilities but rather to cater for a more general demand for those services. In addition, only very few reports have indicated that the authorities responsible for

community planning take into account in a systematic way the needs of workers with family responsibilities.

Community planning

195. Article 5(a) of the Convention, which calls for the needs of workers with family responsibilities to be taken into account in community planning, was adopted as a result of an amendment to the proposed texts, which did not include such a requirement. The Government members who proposed the amendment, which was supported by the Employers' and Workers' members, explained that their intention was to emphasize the contribution which could be made by the development of the social infrastructure to the solution of the problems faced by workers with family responsibilities in the labour market as well as to the promotion of a more equitable sharing of such responsibilities within the family.

196. In *Australia*, the Office of Local Government and the Australian Local Government Association have examined ways to rationalize administrative arrangements and functions in the delivery of federal programmes and are encouraging the involvement of local government in the planning, coordination and delivery of these programmes. Integrated local area planning will utilize the local knowledge and networks to improve child-care and family services. Local governments' role in improving access to housing, employment and services, and in encouraging the provision of work-based child care through joint ventures with the public and private sector, is also being investigated.

197. A number of countries have not indicated that the needs of workers with family responsibilities are taken into account in community planning. In some countries,¹ there are no specific requirements to take account of workers with family responsibilities in community planning. One report² states that workers with family responsibilities are not a target group in the government's community services planning; the government aims to meet the needs of the community as a whole. Other reports³ point out that the responsibility for community planning lies with local and regional governments. This may explain why other countries have nothing to report on efforts made at the central level. Information available to the Office indicates that in *Belgium*, the Minister in charge of Social Emancipation has launched a pilot programme with local communities for the better integration of family concerns in community planning. Under the programme, a day-nursery is expanding its hours to cater to the children of night workers; initiatives are being launched for the care of schoolchildren; and studies for the joint development of facilities between the communal authorities and local employers have been undertaken. The programme also includes on-call services to provide the assistance of trained nurses or unemployed women to families when children are sick; this illustrates the type of measures that are suggested in Part VII of the Recommendation, and discussed below.

¹ e.g. *New Zealand* and *Mexico*.

² *United Kingdom (Hong Kong)*.

³ Including *Finland*, *Germany*, the *Netherlands*, *Spain* and *Switzerland*.

Child-care and family services and facilities

Collection of information

198. In order to make the best possible use of resources, central or local authorities need to have detailed and up-to-date knowledge of quantitative and qualitative needs so as to plan effectively the development of services and facilities and to ensure that changing needs are identified and met. Paragraph 24 of the Recommendation provides that, with a view to determining the scope and character of the services and facilities needed, the competent authorities should (a) collect and publish adequate statistics on the number of workers with family responsibilities engaged in or seeking employment and on the number and age of their children and other dependants requiring care; and (b) ascertain, through systematic surveys conducted more particularly in local communities, the needs and preferences for child-care and family services and facilities.

199. A few countries⁴ report that statistics are collected in order to ascertain workers' needs for support facilities. In *Australia*, the National Child Care Survey has been conducted on a regular basis since 1969, now at three-year intervals; it provides planning agencies with information on the use and demand for child care up to the age of 12 years. Other sources of data include the Census of Commercial Long Day Care Centres and surveys on various topics, including time use, the family, employment benefits and household expenditure. The Persons Not in the Labour Force Survey looks, inter alia, at why child care prevents people from actively seeking work. Forthcoming surveys on Career Experience and Working Arrangements will include questions related to child care. In *Canada*, a national study on workers with family responsibilities was carried out by the members of the National Day-care Research Network in collaboration with Statistics Canada. The Canadian National Child-Care Study analyses the child-care needs and experiences of a large sample of families. The report of the working party will be used by the Government to develop policies and mechanisms to improve child care for working parents. Since 1986, the expansion of child-care facilities in relation to needs has been monitored in *Sweden* with the aid of an annual child-care survey using parental questionnaires. In the *United States*, recent information published includes a comprehensive review of child-care issues and a leaflet entitled "Dependent Care Options".

200. The reports submitted by a number of governments⁵ do not contain information on the action taken to collect and publish statistics or to carry out surveys, some of them stating that such statistics are not available. Other governments⁶ report that the national statistical office regularly collects and publishes information on population figures and carries out population censuses at longer intervals. Such information is used in the planning of social welfare programmes. Several countries report statistical programmes aimed at monitoring the child-care needs of single-parent and of large, underprivileged

⁴ Including *Australia, Canada, Finland, Portugal, Sweden* and the *United States*.

⁵ *Angola, Bangladesh, Brazil, Burundi, Cape Verde, Chad, Colombia, Ecuador, France, Honduras, Hungary, Islamic Republic of Iran, Niger, Mauritius, Mexico, Netherlands, Philippines, Poland, Saudi Arabia, Singapore, Spain, Sri Lanka, Switzerland, United Republic of Tanzania, Togo* and *Tunisia*.

⁶ For example *Belarus, New Zealand, Turkey* and *United Kingdom (Hong Kong)*.

families or groups. Other countries collect information on available child-care places, but with reference to the needs of women workers rather than workers with family responsibilities.⁷ In the *United Kingdom*, the Department of Health collects and publishes annually statistics on the number of child-care services in England, on the basis of information supplied by local authorities, but it does not routinely collect information from parents about their use of child care. However, an ad hoc survey of a sample of parents, working and non-working, single and in couples, with children under 8 years old, was carried out in 1992. It covered the services used and in what combination, how satisfied parents were with the services being used, and their preferred and ideal choices.

Development and promotion of child-care and family services and facilities

201. In order to facilitate the implementation of Article 5(b) of the Convention, Paragraph 25 of the Recommendation calls on the competent authorities, in cooperation with the public and private organizations concerned, to take appropriate steps to ensure that child-care and family services and facilities meet workers' needs and preferences. Clause (a) provides that the competent authorities should encourage the establishment of plans for the systematic development of child-care and family services and facilities.

202. Only a limited number of reports provide detailed information on the measures taken to encourage the establishment of plans for the systematic development of child-care and family services and facilities.

203. In *Australia*, a needs-based planning database provides demand and supply statistics at the local area level. Decisions to allocate new child-care places follow a process which combines nationally consistent statistical analysis, qualitative information from the child-care industry and local knowledge. The Children's Services Programme conducts a regular census of funded child-care services and uses the information collected on the characteristics of users for future planning. A recently conducted review of federal child-care funding arrangements identified improved financial access of child care and increases in the supply of places, especially for babies, as points deserving further development in an otherwise well supported programme. In *Canada*, the provincial governments administer day-care programmes and coordinate policy development and programme planning for childhood services and community-based services to assist seniors and family care-givers who provide support and care for them. The federal Government shares the cost of services used by families in need. In British Columbia, a government-appointed task force on child care recommended increased and diversified funding based on a model of community-based child care; the Government increased its financial allocation for child care to provide financial support to communities to plan for and develop child-care options to meet local needs. In Manitoba, a worksite day-care capital grant has been available since 1989 to assist non-profit sponsors of worksite centres with capital costs. Worksite day care is defined as applying where a majority of children have parents or guardians who are employees of one industry or employer.

⁷ e.g. *Austria*.

204. In *Sweden*, where child-care services and facilities are clearly part of the country's policy of equality of opportunity and treatment for workers with family responsibilities, the Parliament legislates on matters concerning the aims, expansion and financing of child care. The National Board of Health and Welfare and the county administrations are together responsible for supervising the pre-schools and other forms of child-care nationwide. The municipalities bear the day-to-day responsibility of supervising the expansion, running and development of facilities. The responsibility for building and running day-care centres also rests with the municipalities in *Norway*; the Government covers about 35 per cent of recurrent costs.

205. Several other countries report measures taken to develop child-care services and facilities within the community, without, however, making an explicit link with the needs of workers with family responsibilities. The Government of *Cyprus* reports that, in line with its policy to work in partnership with the community for the planning and implementation of services, the Department of Social Welfare Services cooperates closely with community organizations, local authorities and industrial organizations in order to expand day care. In *Mauritius*, the Export Processing Zone Labour Welfare Fund is used to set up child-care centres. In *Spain*, the central administration promotes the development of child-care facilities through cooperation agreements with the local authorities, which receive subsidies and are responsible for the operation of the programmes. However, the services are geared in priority to high-risk groups, children lacking satisfactory family care and single-parent families rather than workers with family responsibilities. Crèches cater for the children (under 6 years of age) of women workers; the children of men workers are admitted when the fathers have nobody to look after them. In *Venezuela*, the Ministry of Family Welfare and the Children's Foundation instituted a national programme to provide care for children. The central objective of the programme, which is needs-based and community-oriented, is to attend to the health and welfare of the child, while at the same time facilitating the mother's entry into the labour market.

206. In a number of countries,⁸ employers are statutorily obliged to set up facilities, normally when they employ a certain number of women. In *Singapore*, where a little over half of existing child-care centres are operated for profit, the Government assists employers and voluntary groups operating child-care centres through capital grants for the purchase of furniture and equipment and special tax treatment.

207. Voluntary action by employers in the provision of child-care services and facilities seems to be on the increase in some industrialized countries,⁹ as employers become more aware of their employees' needs in this connection. Employer-supported child care includes a range of services. Employers typically provide information and referral services, helping to match the employee's child-care needs with the services available in the community; voucher systems, i.e. a child-care subsidy paid to the employee to assist with child-care costs; and slot systems, whereby the employer makes arrangements with an established centre to reserve a number of places for the children of employees. Some may support direct services such as on-site or off-site child-care

⁸ Including *Angola, Egypt, Bangladesh, Ecuador, Islamic Republic of Iran, Mozambique, Syrian Arab Republic and Turkey.*

⁹ Including *Canada, the United Kingdom and the United States.*

centres, or private home day-care agencies. In some cases, employers pool their resources to provide child-care services for working parents while sharing some of the costs. The needs of workers who work unconventional hours and whose children cannot be accommodated in facilities keeping traditional hours may be best met by employer-sponsored facilities. A case in point is hospitals; some large hospitals have taken initiatives in this field, as in the *United States*, where there are currently four hospitals providing 24-hour-a-day, 7-day-a-week, 365-day-a-year facilities.¹⁰

208. To encourage employers to sponsor child care, the *Australian* federal Government has provided fee relief with child-care places since 1991 and plans to extend this form of assistance to family day-care from 1994. Much of the material published in the country on the issue of child care is addressed to employers in the form of information booklets or kits. In New South Wales, Queensland and Victoria, independent Work and Child Care Advisory Services have been established to assist employers, unions and staff to examine child-care options and needs. In *Canada*, the Ontario Government has established an advisory service to help employers deal with the child-care concerns of their employees. The service is available through the local area offices of the Ministry of Community and Social Services. It publishes brochures containing case-studies to address the need for readily available descriptive material on child-care services supported by employers. The case-studies explain the reasons which prompted the employer to provide the service and describe the facilities available in terms of location, premises, capacity, staff, parents' fees, hours of operation, management and employer contribution. The Government of *Ireland* reports that it intends to stimulate the development of child-care services by employers individually and collectively, in partnership with public authorities. A working party comprising representatives from the Federation of Irish Employers, the Irish Congress of Trade Unions, the national Employment and Training Authority, the Departments of Health and Labour and the Irish expert on the EC Child Care Network was set up in 1990 to make recommendations on the development of child-care partnerships between parents, local employers and community groups.

209. In the *United States*, it is estimated that 25 to 30 per cent of working parents have some responsibility for an ageing relative. Employers, therefore, are also beginning to address employees' needs in connection with the care of elderly relatives. They may provide resource and referral services for elder care which help workers to become familiar with the services available in such areas as resources for medical or custodial care and legal information and counselling. Information is sometimes provided through seminars, support groups, hotlines and employee assistance programmes. Companies may also support local, adult day-care centres with financial or material contributions. Other ideas include adapting on-site child-care centres to cater to the needs of the elderly as well. In terms of financial assistance, companies may reimburse or subsidize the costs of employing visiting nurses to cope with the need for medical attention during the day or to cover some of the costs associated with hiring a care-giver so that workers can take a brief holiday from their caring responsibilities.

210. Very little information has been supplied concerning the involvement of trade unions in the provision of facilities to enable workers to cope with family responsibilities.

¹⁰ The National Report on Work and Family, ISSN 0896-3002, Vol. 5, No. 21, 13 Oct. 1992, p. 2.

In the *United States*, the Government reports that child care is provided through a combination of federal and state support, the assistance of private employers and trade unions and the initiative of individual parents. Besides setting up and operating child-care services themselves, trade unions can also promote their development through the collective bargaining process, an approach that is being promoted in *Australia* and the *Netherlands*.¹¹

Services and facilities available

211. Elaborating on the requirement, contained in Article 5(b) of the Convention, that the competent authorities should develop or promote community services, public or private, such as child-care services and facilities, Paragraph 25(b) of the Recommendation calls on these authorities, in cooperation with the public and private organizations concerned, to "themselves organize or encourage and facilitate the provision of such facilities, free of charge or at a reasonable charge in accordance with the workers' ability to pay, developed along flexible lines to meet the needs of children of different ages, of other dependants requiring care, and of workers with family responsibilities".

(a) Child care

212. Nearly all reports acknowledge that workers with family responsibilities need help to cope with the problem of child care. The involvement of the State in meeting that need differs. Some countries (e.g. *Finland* and *Sweden*) aim at giving parents freedom of choice, so that they can make the child-care arrangements which they themselves prefer. There must be good quality child care outside the home for those who want it, while those who prefer to stay at home while their children are small must be given economic possibilities of doing so. In contrast, government policy in other countries (e.g. the *United Kingdom*) emphasizes the responsibility of parents, and increasingly also of employers, to find and pay for child care, except when children and families are particularly in need of provision, on the grounds of welfare. Therefore, most services are not run by statutory bodies but by voluntary groups, private companies or employers, and there is no general subsidy from public funds to help with the cost of facilities for the care of workers' children. In other countries still, where facilities are provided by statutory bodies, by private operators and by charitable organizations or local groups, facilities run on a voluntary basis may also be eligible for public subsidy. In *Australia*, for instance, a special effort is made to address the child-care needs of students.

213. Many reports also note that child-care needs vary with the age of children. Although there are national differences in the age limits adopted, there is broad agreement that three groups of children require targeted care. For infants (from birth to ages 2 to 4) the emphasis is normally placed on health, hygiene and nutrition. Pre-primary-school children (after infancy and up to the beginning of primary education, between 5 and 7) may be accommodated in facilities that prepare children for primary schooling or in facilities that offer only care and play. School-age children require attention before and after normal school hours, during holidays and sometimes at meal times. Such a need

¹¹ IUF: *Women at work*, Dec. 1990.

is particularly felt in countries where the school-day is short (e.g. in *Germany*), and in countries, such as *Belarus*, where some schools run on a shift system with two of three groups attending for parts of the day, or in countries, such as *Norway*, where the younger children attend only for half of the day. In *Panama*, the facilities available care for children aged 1 to 4.

214. In a large number of countries,¹² day care for children under the age of admission into primary school is organized on the basis of the children's ages. In general, facilities for older children are under the responsibility of the ministry of education and facilities for the younger children come under the health or welfare department.

215. In other countries,¹³ all children below school age are cared for in a single system of facilities. Children are divided into mixed age groups, since it is considered valuable for them to grow up with children of other ages. This arrangement also creates greater stability as children do not have to change groups. Extended sibling groups can include children of all pre-school ages and sometimes younger school children as well. In *Sweden*, such facilities typically operate around 12 hours a day, five days in the week, and throughout the year.

(b) Care of the elderly

216. Concern with workers' responsibilities towards elderly family members is expressed in a few reports. In *Australia*, the Home and Community Care programme, a joint federal/state programme, is directed towards assisting elderly people and younger people with disabilities to live in the community and prevent premature or inappropriate long-term residential care, and to assist those who care for these people. (A 1988 survey of disabled and aged persons found that 38 per cent of persons providing care to co-residents were in the workforce.) Those who provide care may have some respite from their responsibilities through the availability of services provided in the day-care centres, in residential care institutions and through services provided in the home; financial assistance through the Domiciliary Nursing Care Benefit; and counselling and support groups. A further increase of the funds available for these activities has been announced in the 1993/1994 Federal Budget. A review is being conducted of aspects of access to services or service provision which present barriers for care providers who are, or wish to become, participants in the workforce on a full- or part-time basis. In *Canada*, the federal Government, through the Canadian Assistance Plan, provides the Seniors' Independence Initiative, under which expenditures related to independent living in the community are shared with the provincial governments. In the Province of Alberta, the Coordinated Home Care Programme supports families which care for an ill or elderly family member at home; senior centres are developed through cost-shared grants to municipalities. In British Columbia, "Security for Seniors: Policies and Programs, 1988-2000" includes a variety of programmes which assist working family members who care for elderly relatives.

¹² Including *Austria, Belgium, Canada, Germany, France, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom*

¹³ Including *Cyprus, Denmark* (age-specific facilities also exist), *Ireland, Spain and Sweden*.

217. In a number of other countries, existing programmes are geared in priority to the elderly themselves, rather than to workers' needs for assistance with elder care. However, such programmes do provide a basis for assistance, which can perhaps later become more responsive to workers' needs. The Government of *Cyprus* reports on the availability of services for the elderly and disabled, which emphasize the provision of services within the community and the maintenance of elderly and handicapped persons in their own familiar environment, and include day-care services provided by Homes for the Elderly to non-residents. The report for *New Zealand* indicates that support for care-givers of dependants varies, but generally, relief care is only available to those providing care on a full-time basis, thus precluding their involvement in the paid workforce. However, many Area Health Boards provide day-care services for dependent elderly, thus enabling family members to maintain their participation in the workforce. Similarly, under the Attendant Care Programmes for persons with severe physical disabilities, care could be provided for up to 35 hours a week, but, in view of limited resources, attendance is limited to ten hours a week in practice. Where family members are incapacitated as a result of an occupational accident, the Corporation is responsible for the payment of attendant care, household help and child care.¹⁴ In *Singapore*, the Government renders financial assistance to welfare organizations and civic groups to set up services to meet the needs of families with elderly and disabled members. Services for the aged include day-care centres, clubs and a befriender scheme; the disabled can also attend day-care centres or sheltered workshops.

Location and availability of family services and facilities

218. The reports received supply limited information on the location of child-care facilities. The report submitted by the Government of *Norway* notes that almost all day-care centres are located in the neighbourhood of the children's homes and not of the parents' workplace. The comment made by the Government of *Switzerland*, and echoed by the Government of *New Zealand* as far as rural areas are concerned, that supply is better in cities than in suburban communities and that there are practically no facilities in the rural districts, is probably relevant in other countries as well. However, the Government of *Australia* indicates that multifunctional centres, which target the newly-born to 12-year-old child, operate in the rural areas and offer a range of services including work-related care, occasional care and care outside school hours, both centre-based and in families. Multifunctional Aboriginal Children's Services cater to the whole aboriginal population; the majority of care is required for reasons not related to work. No information was provided as to the location of facilities for the care of other family members.

219. As to capacity, several reports indicate that growth has been achieved in the area of child care. However, it is not always easy to understand how many of those children who need care because of their parents' work commitments are actually accommodated. In *Australia*, the level of demand met for newly-born to 4-year olds increased from an estimated 60 per cent in 1990-91 to 76 per cent in 1991-92. In *Austria*,

¹⁴ Accident Rehabilitation and Insurance Act, 1992, s. 26.

the City of Vienna aims to achieve full provision of places for the children of working parents when the children are between age 3 and primary school, and to provide places in crèches to 25 per cent of children in their second and third years. Throughout the country, the number of children in kindergartens has gone up from 28,168 in 1923-24 to 186,734 in 1990-91. In *Belarus*, around 70 per cent of children below school age attend child-care facilities. In *Canada*, according to the 1990 National Day Care Study, the rate of accommodation of children of full-time working parents was 10.45 per cent for children up to age 17 months and 19.2 per cent for children between the ages of 18 and 35 months. In *Cape Verde*, almost 40 per cent of children aged 4 to 6 attend pre-school. In *Finland*, 124,000 places were available in communal and private day care, a growth of 16,000 places over 1988. Most communes also provide evening and night care for the children of night workers. In *Israel*, some 61,000 children are accommodated in the 12,000 child-care facilities available throughout the country; governmental subsidies cover 21 per cent of the expenditure, and fees are linked to the parents' ability to pay. In the *Netherlands*, the subsidy provided by the central Government for municipalities to develop their child-care provision will be nearly doubled between 1990 and 1994. This will result in a growth from 18,000 to 55,000 places, which, due to the prevalence of part-time work, are expected to serve 100,000 children. A proportion of the facilities is to be developed in cooperation with enterprises. In *Sweden*, 48 per cent of all children aged 3 months to 6 years had a place in public child care; of these, 71 per cent were in day-care centres and 29 per cent in family day care. In the *Ukraine*, pre-school care is available to 57 per cent of the children in need of such attention. In the *United Kingdom* (Hong Kong), the Government has set a target of providing an additional 1,400 subsidized places each year until the demand is fully met. In *Venezuela*, the number of children involved in the child-care programme went up from 3,290 in September 1989 to 71,872 by the end of 1990.

220. Information published by the Commission of the European Communities shows an uneven development of facilities in Member States.¹⁵ In *Denmark*, 57 per cent of the under-two, 66 per cent of the 3-6 and 32 per cent of the 7 to 10 year-olds were in day care. In *France*, 95 per cent of pre-primary children are in public, free nursery school and 25 per cent of the under-three children are in licensed day care. In *Belgium*, the percentage is the same for the older group and lower (20 per cent) for infants. In *Italy*, the percentage for this group falls to 5 per cent, but over 85 per cent of the older children are looked after at least part of the day. In *Germany*, *Greece* and *Spain*, 60 to 70 per cent of children aged 3 to 6 attend kindergarten, but only about 2 to 3 per cent of babies find a place in a crèche. In the other countries, as for example *Ireland* and the *United Kingdom*, the percentages are lower still.

221. Few reports contain information on the facilities available to schoolchildren either to complement the school-day or during holidays. Facilities in the first group may be provided by the schools themselves, which then offer half-board arrangements, with lunch and supervised play and study before and after normal teaching hours. They may be provided by local authorities or other groups, using either the school premises or other premises. Examples of extended school programmes are found in *Belarus*, where 21.5

¹⁵ "Families and policies: Evolution and trends in 1989-1990", Commission of the European Communities, Observatory of national family policies, 1991.

per cent of pupils in classes 1-9 attend schools which cater to their needs outside of school hours. Outside School Hours Care and Vacation Care were available to some 48,000 *Australian* children at 30 June 1992; federal and state governments plan to fund 30,000 additional places by 1995-96. The level of demand met for care for 5-12 year-olds increased from an estimated 44 per cent in 1990-91 to 51 per cent in 1991-92. The report for *Austria* states that there are over 14,000 day-care places available for school-age children in Vienna, a little more than half of which are in municipal day homes, where fees are fixed in consideration of parents' income, and the rest in charitable or private homes. In future, the expansion of these facilities is to be emphasized. Out-of-school care is also provided in *Canada* and *Finland*, although no attendance figures are given. The Government of *New Zealand* notes that there is no organized state provision or funding for the care of young school-age children. Available services, which cater for only 4 per cent of children between 5 and 12 years of age, have largely been established by parents. In *Singapore* the Government encourages the development of Before and After School Care Programmes (BASCs) in the community. These are run by welfare organizations and by some schools; fees are charged on a sliding scale based on the income of the family. Significant progress is reported in *Sweden*: whereas 6 per cent of children aged 7 to 9 and 1 per cent of children aged 10 to 12 had places in leisure centres or family day-care in 1970, in 1990 the percentages reached 49 per cent and 8 per cent respectively. In the *United Kingdom*, where it is known that child care for school-age children is not well developed across the country, the Department of Health is setting up a pilot programme involving the voluntary sector to encourage expansion of services. In the *United States*, partnerships between the public and private sectors have formed in many cities to develop school age child-care programmes. In California, a company provided a US\$250,000 grant for modular units at four schools for "latchkey" programmes. Parents' organizations have in turn used the space for infant programmes and other activities during school hours when the latchkey programme is not in session.¹⁶ According to a newspaper report,¹⁷ the *Japanese* Prefecture of Saitama had planned to abolish its school lunch programme. This move was strongly opposed, and the plan was abandoned. People most in favour of the school lunch programme were women respondents in the 20-40 age group.

222. In several countries, a large proportion of child care is provided for a fee by individuals in their home. Various known as "mothers' helps" (France), "day mothers" (Germany), "child minder" (United Kingdom) or "guardian mother" (Venezuela), these women look after small children all day and school children before and after school. They operate throughout the year, except for the period of their own annual leave. The fee is often negotiated between the parties, although in some systems it is fixed by and paid to an organizing agency, which may provide some training and support, e.g. toy libraries. In *Australia*, a regular payment is made to carers of children with disabilities, in recognition of the additional care and attention that such children require. The number of children one person may look after is normally regulated; in *Finland*, it is a maximum

¹⁶ US Department of Labor: *Employers and child care: Benefiting work and family*, reprinted 1990.

¹⁷ "Scrapping school lunches is hot topic"; "Saitama town tosses out plan to scrap school lunches", in *Mainichi Daily News*, 4 and 19 Sep. 1992.

of four children, including the person's own children. Child minders must register with a local authority which monitors their work and may also offer guidance and training. In *Venezuela*, the system is thought to benefit not only the children receiving care and their mothers, but also the women who provide the care. Their participation in the programme enables them to improve their housing situation and provides training opportunities. However, in many countries, people often fail to apply for registration, partly because licensing formalities are unnecessarily long and complicated. They thus operate quite informally, and may take in more children than would be desirable.

223. The existence of play groups, where children can drop in for a few hours on some days of the week, has been reported by several countries. However valuable these may be for children in the socialization process, they cannot be regarded as an adequate response to the child-care needs of working parents.

224. Although there is clearly a great deal of interest in a large number of countries for the development of child-care facilities, demand far exceeds capacity. A general trend seems to be that the older the pre-school child grows, the easier the situation becomes, although in a great number of countries the facilities for this age group consist of places in official educational institutions, which often operate only over limited hours of the parents' working day. However, in some countries (e.g. France) the programme spans up to ten hours, and frequently lunch is provided.

Cost and methods of financing

225. Good quality child care is costly. In order to ensure that workers can afford the services, many countries subsidize child care. The *Australian* Federal Government spent \$434.8 million on child care in the financial year 1991-92, through capital grants, operational subsidies and income-related fee relief, a system under which fees are paid directly to the care provider. These funds are supplemented by state budgetary allocations. In *Belarus*, 92 per cent of the cost of child care is borne by the State. In *Israel*, government subsidies cover 22 per cent of the cost of the 61,000 child-care places available nationally, and parents pay the rest. In *New Zealand*, the child-care subsidy programme provides financial assistance to families of children under age 5 who would be unable to undertake part-time work or training because they cannot afford the full cost of child care. *Singapore* provides a \$100 per month subsidy per child. In *Sweden*, state grants cover about 40 per cent of the cost of a place in day nursery. Special state grants are paid to day nurseries with extended opening hours and nurseries which are open at night. Such grants are earmarked for municipal and private day nurseries and leisure centres and for municipal part-time groups and open pre-schools. From 1993 on, the grants will no longer be earmarked, so as to enable the municipalities to allocate funds according to their own priorities. In *Switzerland*, the cost of a place in a day nursery is estimated to amount to SF1,800 per month.¹⁸ Parents pay a fee calculated on the basis of their income and places are heavily subsidized by cantonal and municipal authorities, with indirect support from the Confederation. In the *United States*, under the Child Care

¹⁸ US\$1,560.

and Development Block Grant Act of 1990,¹⁹ expenditures of 2.5 billion dollars are authorized over three years, and further sums as necessary for two additional years. In contrast, parents are expected to meet the costs of child care in other countries, including the *United Kingdom*, where there is no general subsidy from public funds to help with these costs.

226. Another method of helping with child-care costs is to provide tax incentives and subsidies. In *Canada*,²⁰ there is a child tax credit (\$213 in 1992) for each child under age 7 of low- and middle-income families and a child-care expense deduction of \$4,000 per child under age 6 or other children with special needs and of \$2,000 per child between 7 and 14 years of age. The 1992 budget proposes to increase the amount of allowable expenses by \$1,000 per child beginning in 1993. In *France*, working parents whose children below 7 are cared for outside the home receive a tax free allocation. Social security contributions for persons employed in the home to care for small children are covered by the Family Allowances Fund. In the *United Kingdom*, where an employer manages a child-care service and subsidizes the cost for the employee, the subsidy is not treated as a taxable benefit. However, where an employer helps with the cost by means of a voucher, the subsidy is subject to tax. Employers can get tax relief for expenditure on child care. In the *United States*,²¹ parents are eligible for annual tax credits of up to US\$720 for one child and US\$1,440 for two or more children, depending on income. Under the Federal Dependent Care Assistance Programme,²² the expenditure incurred by an employer to provide care through a centre sponsored by the company, to subsidize any child care chosen by an employee, or to pay a portion of employees' child-care expenses will not be considered as income to the employee.

227. The reports examined contain little information on the financing of public facilities for the care of the elderly. In a few countries, as explained above, employers contribute to the financing of facilities that meet workers' needs for such care.

Organization and staffing

228. Paragraph 26 of the Recommendation provides that: (1) child-care and family services and facilities of all types should comply with prescribed standards laid down and supervised by the competent authority; (2) such standards should prescribe in particular the equipment and hygienic requirements of the services and facilities provided and the number and qualifications of the staff; and (3) the competent authorities should provide or help to ensure the provision of adequate training at various levels for the personnel needed to staff child-care and family services and facilities.

229. Good care requires safe premises with both indoors- and out-of-doors facilities, satisfactory material arrangements including cooking and cleaning, and quality programmes providing care and stimulation, that is to say an excellent staff. The ratios of children per adult and the number of children in a group should be low and linked to the children's

¹⁹ 42 USC s. 9858-9858PA.

²⁰ Income Tax Act.

²¹ 26 USC s. 21.

²² 26 USC s. 129.

age. The personnel (children's nurses, social educators and pre-school teachers) should be qualified and stable. This implies that their terms and conditions of employment, including prospects for upward mobility, should be sufficiently attractive. Arrangements also need to be made for registration and inspection. However, official requirements should not be such as to inhibit the development of facilities. In *Canada* (British Columbia), the relevant legislation is being reviewed to identify changes that can be made to remove barriers to expansion without compromising standards of care and the well-being of children.

230. Several governments²³ have enacted legislation regulating staff qualifications, staff-children ratios, group size, records to be kept and health and safety requirements. National authorities thus license and regularly inspect child-care centres to monitor standards. In *Australia*, where each state and territory licensing authority is responsible for the development and monitoring of child-care regulations, the federal Government is currently working with them to achieve nationally consistent child-care regulations. In *Austria*, the Vienna Law and Ordinance on children's day homes set out requirements for the qualification and training of staff and the size of groups, which cannot exceed 12 to 14 in the case of babies; 16 to 18 for toddlers; and 25 to 28 for children in kindergartens or day nurseries. In *Japan*, nursery school teachers are appointed at the ratio of one to three children under 1, one to six children aged 1 to 2 years, one to 20 children aged 3 to 4 years and one to 30 children aged 4 years and above. As pointed out by the Government of *Cyprus*, such monitoring can also be used to provide guidance and advice in order to improve the quality of the services. Good practice guidelines may be issued in order to explain how to meet official requirements.²⁴

231. A shortage of staff, especially properly trained staff, is a difficulty identified in some countries,²⁵ and probably experienced in others as well. In the *Ukraine*, 22,000 posts were vacant as of 1 January 1991. While the reports examined do not provide information on the terms and conditions of employment of staff members in child-care facilities, in several countries there is evidence of high turnover rates linked to poor pay and working conditions. For example, in the *United Kingdom* in 1985,²⁶ the only workers in the pre-school services earning more than half the average non-manual wage rate were teachers in nursery education. Child minders were earning less than a quarter of the average non-manual wage rate. The low pay and low status of child-care workers may be linked to the fact that this is in general a sector dominated by women. According to

²³ e.g. *Australia*, *Canada* (Alberta: Community Care Facility Act and Childcare Regulation; Ontario: Day Nursery Act; Saskatchewan: Childcare Act, Dec. 1990; Yukon: Childcare Act, 1990); *Cyprus* (Children's Law); *Finland* (Act on Child Day Care (36/1973)); *Germany* (Acts at provincial level to implement the Child Care and Youth Assistance Act); *Ireland* (Child Care Act, 1991); *New Zealand* (Education (Early Childhood Centres) Regulations, 1990); *Singapore* (Child Care Centres Act and Regulations, 1988); *United Kingdom* (Hong Kong) (Child Care Centre Ordinance, Ch. 243).

²⁴ For example, in the *United Kingdom*, such guidelines are issued by the voluntary sector, often with financial help from the Government.

²⁵ e.g. *Belarus*, *Hungary*.

²⁶ See Cohen, B. and Fraser, N.: *Childcare in a modern welfare system*, IPPR, 1991, ISBN 1 87452 41 8.

European estimates,²⁷ "child-care workers, in all countries, are overwhelmingly women, at least 90 per cent in each country and usually 95 per cent or more; the younger the age of children, the smaller the proportion of men involved in their care".

232. In this connection, it is interesting to note that the policy of the Government of *Norway* is to increase the number of male staff in pre-schools and primary schools, where the availability of male role models is considered important. The European Child Care Network has also looked at this issue²⁸ in the perspective of strategies to improve equality in the labour market. The Network has concluded that the issue of child care in relation to equality of opportunity involves not only the development of child-care services and facilities but also employment adaptations and changes in the division of child-care and other family responsibilities between men and women. This is fully in line with the requirements of the ILO standards.

233. Several reports²⁹ indicate that training is of concern. In *Australia*, about 46 per cent of all staff in services have formal qualifications relevant to child care. Community-based long day care centres have the highest proportion of qualified staff (48 per cent) while private centres have 44 per cent. In outside school hours care services, 35 per cent of the staff have qualifications, and in family day-care services, 15 per cent of care providers hold relevant qualifications. In *Austria*, over 50 per cent of kindergarten staff have recognized caring or teaching diplomas and about 22 per cent have none, while some 18 per cent are employed in manual tasks. In *Germany*, staff have almost always received further state-regulated technical training. In the *United Kingdom* (Hong Kong), both initial and in-service training is provided, including orientation and induction courses and staff development programmes. In *Singapore*, a Child Care Training Programme has been developed to ensure an acceptable standard of care. Centre operators receive subsidies through the Skills Development Fund for expenses incurred in staff training.

234. No information was provided on the licensing and supervision of facilities for the care of the elderly or the training of their staff.

Help in the exercise of family responsibilities

235. Part VII of the Recommendation addresses the last set of measures which should form part of a strategy to help workers reconcile their employment and family responsibilities. Paragraph 32 calls on the competent authorities and bodies in each country to promote such public and private action as is possible to lighten the burden deriving from the family responsibilities of workers. The reports examined do not, in general, contain extensive information on the measures taken to give effect to this part of the Recommendation. In most cases, the services described do not appear to have been developed with a view to supporting workers with family responsibilities, but rather to helping the general population.

²⁷ Commission of the European Communities, European Commission Childcare Network: *Men as carers for children*, V/1731/90-EN.

²⁸ *idem*.

²⁹ Including those from *Germany, Mauritius, Singapore, Spain and United Kingdom (Hong Kong)*.

Provision of home help and home care services

236. Paragraph 33 of the Recommendation calls for the development of home help and home care services which are adequately regulated and supervised and which can provide workers with family responsibilities, as necessary, with qualified assistance at a reasonable charge in accordance with their ability to pay.

237. The Government of *Finland* notes in its report that, where paid leave is available to care for a sick child or family member, it is usually the mother who has to exercise this right. This contributes to wage discrimination because such absences are perceived as increasing the indirect cost of women's labour and justifying the lower wages offered in industries where women predominate. Where such leave is not available, it is most probably also the mother or daughter who makes the necessary arrangements, with similarly unfortunate employment consequences, because then women are seen as unreliable. This shows the importance of home help and home care services as support services for workers.

238. In *Australia*, home help, nursing, personal care, transport, linen and food services are available for the frail elderly and those who care for them. In *Austria*, social workers or children's nurses are available to visit homes in case of difficulties. Other family support services include home nursing by district nurses; home help; family help and home care for children; house cleaning; home visiting services; laundry services; repairs and meals on wheels. The budget devoted to the services had grown by 29.70 per cent between 1973 and 1991. The Government of *Belarus*, where domestic services meet only one-third of the demand, has adopted a plan which provides for the expansion of such services, the implementation of which, however, is limited by resource constraints. The Government of *Finland* acknowledges that the country still lacks an effective home help system that could intervene when a child is ill. In *Germany*,³⁰ the Health Insurance Act provides that if, in a household where there is a child below 12 years of age, the head of household is unable to run that household because of hospitalization or residential treatment, or, according to regulations issued under the Act, in other cases as well, the sickness fund must provide the insured person with domestic help or pay the cost of such help. In *Singapore*, Family Service Centres set up in the neighbourhood provide casework services, family life education, referral services and volunteer development programmes for a nominal fee. The Government of the *United Kingdom* (Hong Kong) plans, resources permitting, to expand home help service staff by 44 additional teams and family aid services by 31 additional aides by 1995-96.

239. In some countries, as for example *Israel*, home help services are provided for single-parent families only. In *Spain*, under an agreement signed between the Ministry of Social Affairs and the Autonomous Communities, the budget devoted to social services including home help has more than trebled between 1988 and 1992. Some 85 per cent of people using home help services are elderly and 7 per cent belong to single-parent families.

240. A few countries also report on support services for family welfare. These can obviously be of great value to workers who experience difficulties in their family life.

³⁰ Social Insurance Code (Statutory Health Insurance).

In *Austria*, a vast network of marriage, divorce, children or youth counselling services is available. Advice is provided to parents before and after the birth of a child, and a range of facilities such as family planning centres, parents' schools, parents' advice centres, parent-child centres have been set up.

Provision of services in the community

241. Paragraph 34 of the Recommendation notes that many measures designed to improve the conditions of workers in general can have a favourable impact on those of workers with family responsibilities. It accordingly calls on the competent authorities to promote such public and private action as is possible to make the provision of services in the community, such as public transport, supply of water and energy in or near workers' housing and housing with labour-saving layout, responsive to the needs of workers.

242. In view of housing shortages, several governments, including *Burundi* and *Chile*, report housing development programmes for low-income families. In *Australia*, the federal Government provides funds to the states and territories for public housing and home purchasing assistance, which is subject to broad guidelines, including that assistance shall be provided in a flexible manner to meet the changing employment and other needs and circumstances of the people receiving assistance, and that the design, style and siting of rental housing will, to the maximum extent practicable, reflect the need for access to employment opportunities and services. In *Bolivia*, rural community development programmes include the provision of housing and electricity. The *Swiss* Federal Housing Office has set up an evaluation system to monitor the improvement of the quality of housing units and of their environment.

243. A few reports refer to the adequacy of transport services. In *Australia*, an ambitious five-year programme of grant to the states, launched in 1991-92, aims at improving the viability of infrastructure services such as public transport systems, facilitating access to employment, training and child-care services and increasing labour force mobility. In *Germany*, considerable funds are made available each year by the Federation and the communities to provide a rapid, comfortable and economical service. Special routes and timetables are worked out to meet the needs of users during peak times, account being taken of their places of residence and work. Transport services are reported to be satisfactory in *Cape Verde* and *Mauritius*.

244. In some countries, including *Mozambique*, employers provide or subsidize services such as transport, housing or the provision of energy and water to workers' housing. In *Tunisia* and *Turkey*, collective agreements include a number of benefits such as staff transport, feeding facilities or the provision of luncheon vouchers, help with housing, holiday camps for workers' children and various loans.

245. The Governments of *Canada*, *Israel* and the *Philippines* consider that services are well developed and are generally responsive to the needs of various sections of the population, including workers with family responsibilities.

CHAPTER VI

Barriers to and prospects of ratification

246. Convention No. 156 has been ratified only by 19 member States. Although this rate of ratification is relatively low in absolute terms, it is fairly consistent with the number of ratifications registered for other ILO Conventions adopted around the same period. Paradoxically, the very high level of ratification of Conventions Nos. 100 and 111 may go some way to explaining the relatively low rate of ratification of Convention No. 156. Both have gained a prominence as much from their wide acceptance as fundamental human rights, as from their influential role in promoting social justice. The enactment of constitutional, legislative and practical measures to prohibit discrimination on the basis of sex — a trend that has continued unabated over a number of years — may be attributed directly to their impact. Some governments, which are bound by the provisions of both Conventions Nos. 100 and 111, have indeed stated that adequate measures have been taken to meet the primary purpose of Convention No. 156, though a number of these do not indicate whether they intend to ratify the Convention. Other governments appear to share this view by alluding, in their reports, to the measures taken generally to combat discrimination. The Committee hopes that the present survey will serve to clarify the need for member States to consider also taking specific action to apply the objectives of the instruments concerning workers with family responsibilities within the framework of their existing policies to promote equality of opportunity and treatment for men and women workers and that it will thus facilitate the full application of Convention No. 156 and Recommendation No. 165 and the wider ratification of the Convention.

247. A number of governments have stated that ratification of the Convention is impeded principally by current, often severe, economic difficulties. In this connection, the Government of *Benin* has indicated that the economic development of the country does not yet permit full application of the Convention and Recommendation. The Government of *Burundi* also states that in the present economic context, the terms of the Convention and Recommendation are not such as to favour the creation and promotion of employment given the burden that enterprises would have to bear in order to apply the instruments. The Government of *Cameroon* refers to the level of development of the country as the main impediment to the ratification of the Convention. The Government of *Chad* states that, in view of mass unemployment in the country, it cannot undertake measures aimed only at workers. The current economic situation in *Ecuador* is also cited by that country's

Government as the main impediment to ratification at the present time. The Government of *Grenada* has indicated that in the prevailing economic environment, the limited resources available have to be used for the greatest good of the greatest number of workers. Having studied the provisions of the Convention, the Government of *Kenya* has indicated that ratification is not possible, primarily because of the prevailing unemployment situation in the country. The requirements of the Convention are, in the view of the Government of the *Philippines*, too elaborate and difficult to comply with, particularly in the context of high unemployment. The Government of *Romania* has stated that in view of the country's precarious economic and financial situation, it is not in a position to take any decisions in conformity with Article 1 of the Convention.

248. Related to these views is the concern of a number of countries that the means to implement the Convention are insufficient at present. The Government of *Bolivia* has stated that while the provisions of the Convention and Recommendation are regarded as appropriate for the development of the family, they must be implemented gradually, in accordance with the resources available in the country. The Government of *Burkina Faso* considers that the present state of the country's social legislation does not permit ratification of the Convention or acceptance of the Recommendation. In addition, the Government states that insufficient human and material resources limit the supervision of the application of legislation on this matter at the national level: though efforts are being made at the moment to develop human resources, there remains a problem of material means. According to the Government of *Mali*, the system of social protection in the country has been based, as much as possible, on the provisions of the Convention; and in a sense, the Convention is already being applied by stages. However, constraints such as the low level of wages subject to taxation, social costs and the insufficiency of the state budget present obstacles to the application of the instruments.

249. The absence of relevant national legislation is cited by some governments as an important impediment to ratification. This is the reason cited by the Government of *China*, which has indicated that while women workers and their children are accorded protection, measures have not yet been taken either to cover those responsible for other dependent family members in need of care or to extend these rights to men. The Government of *Cuba* has indicated that there are no general measures regulating the situation of workers with family responsibilities but as economic and social development permit, there will be greater opportunities to apply the Convention. In *Honduras*, the Government has noted that national legislation does not contain any provisions applying especially to workers with family responsibilities, although there are some enterprises that take into account the family responsibilities of their workers. The Government of *Saudi Arabia* has indicated that ratification of the Convention presents difficulties, as certain provisions of the Convention and Recommendation are not covered by legislation and it is not intended to take any measures in the foreseeable future.

250. Other governments have considered that certain modifications would need to be made to existing legislation in order to permit ratification. While some seem prepared to introduce such changes, others do not appear ready to consider legislative action at present. One impediment to ratification in *Cameroon* is, according to the Government, that legislation at the present stage does not cover particular categories of workers, even though considerable effort has been made to take measures in favour of those with family

responsibilities. According to the Government of *Egypt*, the application of the Convention does not present any difficulty but it considers that modifications to legislation should be made before ratifying the Convention. The Government of *Ireland* has indicated that it is not yet in a position to ratify the Convention and accept the provisions of the Recommendation with a guarantee to implement fully all of the required provisions. Ratification would necessitate amendments to national legislation which, at the moment, is not feasible. However, the Government notes that its present position is subject to periodic review. The Government of *Morocco* states that some measures have been taken under the national legislation with a view to assisting women workers to reconcile their work and family responsibilities. The Convention has not been ratified because at present, the legislation does not provide for the needs of workers of both sexes to be taken account of in their conditions of work. The Government of *New Zealand* has observed that no formal consideration has been given to developing a national policy committed to the delivery of effective equality of opportunity for women and men with family responsibilities, which would appear to be a prerequisite to ratification. The Government is not presently contemplating any further legislative measures to give effect to the provisions of the Convention or the Recommendation other than the possibility of including family status among the grounds upon which it is unlawful to discriminate. The Government of the *Syrian Arab Republic* has advised that ratification would not be possible until existing legislation has been amended or new texts promulgated. The Government of *Tunisia* states that it is seriously studying the possibility of ratifying the Convention but certain provisions of the Convention need to be clarified in order to assess whether Tunisian legislation conforms fully with the provisions of the instrument. The Government of *Turkey* has stated that the ratification of the Convention could be envisaged in the future, in accordance with the socio-economic development of the country and following the necessary legislative amendments. According to the Government of the *United Kingdom*, the relevant legislation is not concerned specifically with discrimination on the ground of family responsibilities and its amendment to conform with the very wide-ranging provisions of the Convention and Recommendation would involve important departures from current policy and practice which the Government does not presently contemplate.

251. The Committee appreciates the concern of governments to ensure that national legislation is, as far as possible, in conformity with the provisions of the Convention before ratification, or as a minimum, does not contradict the spirit of the instruments. However, it considers it necessary to emphasize that under Article 9, the Convention may be applied by a variety of means, consistent with national practice and national conditions. In addition, many provisions of the Convention would appear to be suited to implementation by other means such as collective agreements or enterprise policies that are capable of easy adaptation to new situations. Because societies undergo a dynamic and permanent process of evolution, equality will remain an elusive goal unless the measures taken to combat discrimination are adapted regularly to new problems and circumstances. It is for this reason that the Convention, like other equality instruments, requires primarily that a ratifying government be committed to taking continuous action towards eliminating discrimination in ways that are most appropriate to the individual circumstances of the State.

252. In this connection, the Committee also recalls that the Convention allows considerable flexibility, under Article 10, for its provisions to be applied by stages, so

long as such measures of implementation as are taken shall apply, from the outset, to men and women with responsibilities in relation to their dependent children. It was with a view to enabling application and ratification by all countries, whatever their stage of economic development, that the substantive provisions of the Convention are drafted in terms that take account of limitations in national resources. Several governments appear to consider that ratification of the Convention would involve the imposition of a heavy financial burden on governments or employers through requiring the provision of certain services such as child care. Article 5, however, refers to the obligation to develop or promote public or private community services, such as child-care and family services and facilities, in terms which make it clear that the measures required are those which are compatible with national conditions and possibilities. Similarly, action "compatible with national conditions and possibilities" is to be taken under Articles 4 and 7 of the Convention, which concern respectively, measures to create equality of treatment in regard to the free choice of employment, terms and conditions of employment and social security and measures, such as vocational guidance and training, to enable the integration and re-entry to employment of workers with family responsibilities.

253. As the Committee has noted elsewhere in the survey, the strategies undertaken by employers in accordance with the Convention have proven beneficial, rather than detrimental, in economic terms. Even though the majority of such measures have been undertaken by companies in industrialized countries, this does not undermine the relevance of these strategies for organizations and enterprises elsewhere. In market-oriented economies, all enterprises are inevitably faced with maintaining their competitive edge and viability. Considerations that would strengthen a company's position in the marketplace are even more important in the current economic climate.

254. Many countries have also referred, in their reports, to the importance of these instruments in the social and economic development of their countries. On this point, the Committee would like to stress that the Convention and Recommendation form an intrinsic part of any measures to promote equality of opportunity and treatment between men and women, an objective to which all countries should be committed, whatever their economic policy or stage of development.

255. This is also relevant to the concern of some governments that ratification of the Convention would involve granting preferential treatment to one group of workers to the detriment of other workers. The Governments of the *United Kingdom (Hong Kong)* and *Mexico* have both indicated their reservations concerning the introduction of measures for particular groups, considering in this regard, that national laws and policies should apply equally to all workers. The Committee observes that all equality instruments involve both the obligation to eliminate discrimination and, in order to overcome its effects, to take active measures to promote equality of opportunity. The latter obligation does not imply preferential treatment but an attempt to place workers who are disadvantaged in particular ways, on an equal footing with workers not similarly affected. In so far as all workers, irrespective of race, colour, sex, religion or any other distinction, may need to assume responsibility for family members at some point, Convention No. 156 and Recommendation No. 165 are, in fact, of relevance to all workers and not just to particular groups.

256. The Committee also wishes to address the concern expressed by several member States that their adoption of special measures to promote equality for women under the provisions of Convention No. 111 would be inconsistent with the ratification of Convention No. 156, unless these measures were also extended to men. While the aim of Convention No. 156 is to promote the coverage of women *and* men in all programmes concerning workers with family responsibilities, it is justifiable to continue to take special measures for women workers — and indeed perhaps necessary in order to achieve effective equality between men and women, as expressly provided for under Article 5(2) of Convention No. 111. Recommendation No. 165 states specifically that the maintenance of special measures during a transitional period is not to be regarded as discriminatory (Paragraph 9(2)).

257. Some countries have expressed the hope that the present survey will serve to clarify some questions in order that they may proceed to ratification. Since certain Articles of the Convention have been referred to by a number of governments as being possible obstacles to ratification, the Committee has considered it worthwhile to devote some attention to further explaining the requirements of those provisions.

258. The Governments of *Austria* and *Italy* have referred to the problem of determining the persons to be covered by *Article 1, paragraph 2, of the Convention*, which states that the instrument's provisions "... shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support ...". It is clear from the preparatory work on the Convention that this provision was intended to cover those persons requiring the greatest care and support; and, importantly, those whose needs would limit seriously the employment of workers who had assumed responsibility for their care and support. Coverage was not, however, to be limited to those members of the immediate family who were economically dependent, but was intended also to cover those with difficulties of a different nature who had as much need of help, as for example, handicapped or disabled persons.

259. The Government of *Tunisia* requires clarification as to whether *Article 2*, which contemplates the application of the Convention to "all categories of workers", would present an obstacle to ratification, since temporary workers are not accorded certain facilities which are available by legislation to permanent workers. In *Mauritius*, the Government states, there is at present no legal provision concerning the payment of social security benefits, including unemployment benefits, during periods of absence based on family responsibilities. Traditionally, in all sectors of the Mauritian economy, a minimum period of 12 months' employment is required in order to gain entitlement to annual leave with pay. The Government is concerned not to undermine the prospects of casual employment.

260. The Committee refers, in this regard, to paragraph 46 above where it pointed out that all workers should be covered, whether in full-time, part-time, temporary or other forms of employment and whether they are salaried or self-employed. However, Article 10 of the Convention would enable the application of the instrument to be delayed in respect of specific categories of workers. The Committee considers that the differential treatment of limited categories of workers would not be contrary to the Convention, provided that efforts were demonstrably made to progress towards the coverage of these

groups as national circumstances permitted and provided that such differential treatment did not amount to discrimination between men and women.

261. Among the matters requiring clarification by the Government of *Canada* is the question as to whether or not *Article 8* must be implemented by legislation. During the discussions leading to the adoption of the Convention, the competent Conference Committee wished to make it clear that this provision did not require a legislative prohibition of dismissal on the ground of family responsibilities; and for this reason, it replaced the draft text, which provided for such a prohibition, with the present wording.¹ The Government of *Austria* has also commented that *Article 8* assumes the existence of a procedure for terminating employment and the inclusion of "family responsibilities" among the prohibited grounds of termination. Similar concerns have also been expressed by the Government of *Japan* which has mentioned the requirement of *Article 8* as a main impediment to ratification. In the view of the Committee, *Article 8* does not require that a reason must be given in all cases in which the employment of a worker with family responsibilities is terminated. *Article 8* does, however, require that when, under national legislation, employment may be terminated only for valid reasons, family responsibilities may not constitute a valid reason.

262. From the reports submitted, it appears that a number of governments have regarded the Convention and Recommendation as providing guidelines for the formulation of labour and social policy, sometimes with a specific view to eventual ratification. The Government of the *Bahamas* has indicated that it is actively perusing the provisions of the instruments with a view to determining what action, if any, is necessary. The Government of *Canada* has indicated that there is substantial compliance with the requirements of the Convention and Recommendation — and that further initiatives are being taken in this regard. The potential for ratification is currently under review in consultations among all jurisdictions in the country. The Government has expressed the hope that a number of questions concerning compatibility will be clarified by the present survey. In 1988, the Government of *Cyprus* recommended to the House of Representatives that even though existing legislation and practice did not make it possible to ratify the Convention, the promotion of the instruments would be appropriate within the framework of the Government's labour and social policy. The Government has also indicated that the Convention and Recommendation are, at present, being re-examined by a technical committee of the national tripartite Labour Advisory Board, with a view to identifying those provisions which might be promoted either through legislation or collective agreements in the current socio-economic climate. The report submitted by the Government of the *Lao People's Democratic Republic* states that Convention No. 156, like all ILO Conventions, has been referred to in the drafting of government policy and has been submitted to the Supreme People's Assembly for consideration of ratification at the appropriate time. The Government of *Mauritius* has indicated that it is pursuing an active policy to promote the full participation of workers with family responsibilities in the economic activity of the country; the instruments must, however, be applied progressively in a small country and ratification can be envisaged only after all the requirements of the Convention have been observed. The Government of *Mozambique*

¹ See, in this regard, paragraph 122 above.

has stated that it is a matter of national policy to put into effect, through legislation and practice, the provisions of the Convention and Recommendation. While existing conditions do not permit ratification, the provisions of the instruments are taken into consideration in all appropriate respects. The Government of the *United Republic of Tanzania* has indicated that efforts are being made to draft legislation so that the Convention may be ratified. In *Panama*, the Government has considered taking measures to give effect to the Convention and Recommendation but is, at the moment, concerned with other social policy priorities, such as the ratification of the United Nations Convention on the Rights of the Child and the approval of a family code. The Government of *Poland* has stated that while the ratification of Convention No. 156 is included in a programme for the ratification of ILO Conventions and the implementation of ILO Recommendations, ratification is not possible at present because of the lack of equal rights for men and women in the national legislation. In this respect, the Government refers to a number of rights concerning child care that are accorded by legislation to women and available to men only in cases where the mother has died or is unable to provide care for various reasons (such as her absence from her place of residence, sickness or confinement). However, the Government states that in the framework of labour law reform, activities are being carried out to bring the national legislation into full conformity with the provisions of unratified ILO Conventions, including Convention No. 156. The Government of the *United Kingdom (Jersey)* has reported that the island authorities set up a Special Committee on Sex Discrimination in January 1992, which has welcomed the ILO's initiative in promoting the Convention and Recommendation and which is actively considering ways to remove discrimination and thereby assist workers with family responsibilities.

263. Several governments appear to be reviewing the possibility of ratifying the Convention in the near future. For example, the Government of *Belgium* has indicated its intention to proceed to ratification and is now in the process of consulting with the communities and regions concerning the matter. Following a detailed study of legislation and policy several years ago, a number of measures were taken in accordance with the Convention. The Government considers that no legislative measures need now be taken, though it observes that ratification would mean a commitment to pursue the objectives of the Convention, evaluate the impact of all legislation, rules and agreements in the light of the instrument and to try to progress in its application, as the authorities determine. Ratification would be an effective way of showing that the family does indeed constitute the basic social unit, and would help improve the lives of people. The Government of *Lithuania* has indicated that Convention No. 156, together with 44 other Conventions, will be submitted to the Parliament of the country for ratification after they have been published officially during 1993.

Conclusions

264. By 1978, when the Committee reviewed the application of the Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123), it was already widely acknowledged in national policies that women's family responsibilities were a significant cause of the direct and indirect discrimination in employment to which they were subject. Accordingly, the Committee was able to refer to exceptional advances in the 13 years since the adoption of the Recommendation, made by a remarkably large number of governments, to expand the services that enabled women to reconcile their dual family and work commitments. The Committee was also able to anticipate, on the basis of the reports submitted, a further long-term improvement in the position of working women. Less well developed, at that time, was the realization that equality might also require an evolution in the respective roles of men and women in society.

265. Bearing in mind that Convention No. 156 and Recommendation No. 165 were adopted only 12 years ago, the Committee has been gratified to note that many governments, enterprises and trade unions are actively fostering measures both to improve conditions of work and social security for men and women with family responsibilities and to bring about a more equitable sharing of domestic responsibilities. Implicit in this is acceptance of the need to respond to the evolution of our societies. Economic development everywhere has been followed by changes in the composition of the labour force. Most notable has been the change in women's occupational patterns: over the past 30 years, the number and proportion of married women and mothers in the paid workforce has increased dramatically in most countries. Women's increased economic independence seems to have been an influential factor in fostering a change in the traditional relations between the sexes. In addition, it has been widely recognized that, despite the decided emphasis on equality in employment over the last two decades, women's position in the labour market still tends to mirror their traditional domestic role. Women tend to undertake occupations in the caring professions that may be regarded as a natural extension of homemaking and nurturing. Moreover, they predominate in low status, often precarious, jobs at the bottom of the occupational hierarchy, a situation which results both from the expectation that they will forego a career for family concerns and from the need to opt for the type of employment that will enable them to meet their actual or potential family obligations. Thus, a gender-based division of labour unfortunately remains the norm in most countries. Men are also disadvantaged by the lack of equality of opportunity between the sexes. From a young age, they are subject to strong societal pressure to assume the role of the family's sole or principal breadwinner. As a result, there is an expectation

that job and career concerns should override their desire for family involvement, particularly in regard to the rearing of their children.

266. The creation of conditions that enable workers to choose the type of employment best suited to their individual family circumstances, free from discriminatory constraints — including those imposed by tradition — is fundamental to the principle of equality of opportunity and treatment in employment. Because measures to allow men and women to harmonize their work and family commitments are a natural extension of the well-accepted principles on equality, Convention No. 156 and Recommendation No. 165 must be viewed as a necessary part of the overall goal of ensuring that every man and woman should have the opportunity to play a full role in social, economic and public life and also in the family.

267. The importance of these instruments in the overall framework of equality is reflected in the two most recent resolutions of the International Labour Conference concerning equality. The 1985 resolution on equal opportunities and equal treatment for men and women in employment calls for all necessary steps to be taken to ratify Convention No. 156 and to implement the provisions of Recommendation No. 165. A similar appeal to member States is made in the 1991 resolution concerning ILO action for women workers, which also calls for strengthening the ILO's action with a view to stimulating and assisting governments in the implementation of ILO standards concerning equality for women, in particular Conventions Nos. 100, 111 and 156.

268. The vast majority of reports describe the general measures taken to eliminate discrimination against women in employment and occupation, including during and after pregnancy. While such measures are an essential basis for ensuring equality for working women, they are not sufficient to meet the primary purpose of the instruments under review. The main requirement of the instruments consists of declaring and pursuing a national policy aimed at enabling persons with family responsibilities to be employed without discrimination and, as far as possible, without conflict with their family responsibilities. The implementation of this policy would normally involve a comparable degree of coordination and interaction between all of the various authorities responsible for implementing a more general equality policy, as is required, for example, under Convention No. 111. In particular, the objective of Convention No. 156 should be included within the framework of a government's policy to promote equality of opportunity and treatment in all fields of training and employment.

269. However the policy is enunciated, it is indispensable to its application that vigorous measures be taken to promote public awareness of the need for equal opportunity for men and women workers with family responsibilities and the need for changes in attitude. The Committee has been encouraged to note that a number of countries have carried out community education programmes directed at educational institutions, maternity hospitals, and workplaces, which have highlighted the benefits of achieving a better balance between work and home for men and women, and for the children and other family members needing care and support.

270. In order to eliminate direct and indirect discrimination in respect of recruitment, terms and conditions of employment and job security for workers with family responsibilities, some countries have enacted legislation to make the ground of family responsibilities an express ground on which discrimination is proscribed, usually within

the framework of wider measures to ensure equality in employment. While such action is not yet very widespread, there are many examples of practical measures being taken or envisaged to facilitate the entry and, particularly the re-entry, to employment of workers with family responsibilities. For the most part, these measures are integrated with vocational guidance and training services in the same way these elements are linked in the Convention and Recommendation.

271. Innovations in the arrangement of working time have also been introduced over the last two decades, mostly in the industrialized countries. Though many of these initiatives have been prompted by economic concerns, family considerations are increasingly being taken into account in the design of such schemes. Important among these moves is the wider acknowledgement and, therefore, formalization of part-time work and job sharing as appropriate ways of maintaining a career while at the same time attending to family needs. In some jurisdictions, part-time workers are also given priority for filling full-time positions that become vacant.

272. Parental leave, usually unremunerated, is also becoming more widespread, though the duration and conditions for taking this leave of absence are subject to vast variations between countries and between individual enterprises. While relatively few men avail themselves of this right, there appears to have been an increase in the number of fathers taking paternity leave to care for children less than 1 year old. While men therefore appear to desire a greater involvement in the rearing of their children, they are, at the same time, still subject to intense societal pressure to maintain their role as the family income-earner. This consideration must, however, also be linked to the position of women in the labour market: as long as women tend to be employed in low status jobs with low remuneration, it obviously makes more economic sense for women to take unpaid leave than for men.

273. Less widely available is the right to short periods of leave to care for a sick child or other family member, the availability of which would appear to be very important in terms of legitimizing absences that could otherwise be deemed irresponsible behaviour in an employment relationship: when no provision is made for workers to deal with an urgent situation, they may be led to explain their absences on more acceptable grounds, such as sick leave. Furthermore, when the obligation to cope with family crises falls on women workers — or when only women workers are granted the right to take leave for such purposes — this tends to reinforce negative assumptions about women's attitudes to employment.

274. While there has been significant progress in the development of child-care services and facilities and some improvements as regards family services and facilities, these measures do not seem to have occurred as a result of public policies designed specifically for the benefit of workers with family responsibilities. Often, they have been developed to respond to the needs of particular groups, such as women workers, single-parent or large families, low income or ethnic minority families and other underprivileged groups. In a number of countries where the growth of programmes for pre-school children has been remarkable, such growth may be attributable more to a policy aimed at preparing children for primary school than to a concern for the needs of their working parents. Such services will of course, in practice, benefit workers with family responsibilities, especially when their operating hours coincide with the working day. What remains to be highlighted

is that, besides preparing children for school, a legitimate aim of such services should be to facilitate the employment of parents.

275. From the reports reviewed, it appears moreover that progress has been uneven, both between and within regions and countries, and as regards the various types of services required. While the provision of day-care facilities for pre-school children seems to have increased significantly in a number of countries, they remain inadequate in many and non-existent in some. Care for schoolchildren out of school hours has also improved in several countries, mostly through community or self-help initiatives. In some industrialized countries where the ageing of the population has become a significant concern of public policy, the care needs of the frail elderly are also attracting growing attention. Effective home-help services to assist working parents when a child or other dependent family member is ill, have not apparently attracted the attention they deserve.

276. Services provided in response to the needs of women, or of single-parent families (which are headed overwhelmingly by women), are no doubt essential to enable women to become or remain integrated in the workforce. Such services do improve women's opportunities in employment. However, when these services are designed specifically for women, that situation tends to perpetuate the notion that child rearing is the concern only of a mother.

277. On the basis of the reports reviewed, it is evident that many countries are in the process of instituting measures consistent with the objectives of the instruments under review. Not surprisingly, the development of such measures has been strongest in those countries with already well-established policies and goals concerning equality between men and women. Action to implement the Convention and Recommendation has appeared to them a necessary step in the process of identifying and attempting to address all of the interrelated factors at the root of gender discrimination. It is all the more satisfactory, therefore, to note the extent to which the provisions of the instruments are receiving consideration in countries with much less experience in the promotion of equality of opportunity and treatment. The Committee would like to encourage these countries to apply the provisions of the instruments and, where possible, ratify the Convention.

278. In the course of examining the reports submitted for the present survey, the Committee has become aware that a significant number of governments and employers' and workers' organizations do not seem to clearly understand the purpose and requirements of the instruments. Therefore, the importance of the instruments in furthering equality between men and women tends to be insufficiently understood. For this reason, the Committee considers it vital that greater efforts be made by the Office to sensitize decision-makers at the national level, and the international community at large, to the need to apply the principles contained in these instruments and to ratify Convention No. 156, in order that real gains may be made towards achieving equality. The Committee also considers that measures to publicize the Convention and Recommendation would be a particularly appropriate response to the activities planned to celebrate 1994 as the International Year of the Family.

APPENDIX I

Text of the substantive provisions of instruments under consideration

Convention No. 156

Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities

.....

Article 1

1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

2. The provisions of this Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

3. For the purposes of this Convention, the terms "dependent child" and "other member of the immediate family who clearly needs care or support" mean persons defined as such in each country by one of the means referred to in Article 9 of this Convention.

4. The workers covered by virtue of paragraphs 1 and 2 of this Article are hereinafter referred to as "workers with family responsibilities".

Article 2

This Convention applies to all branches of economic activity and all categories of workers.

Article 3

1. With a view to creating effective equality of opportunity and treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

2. For the purposes of paragraph 1 of this Article, the term "discrimination" means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

Article 4

With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities shall be taken —

- (a) to enable workers with family responsibilities to exercise their right to free choice of employment; and
- (b) to take account of their needs in terms and conditions of employment and in social security.

Article 5

All measures compatible with national conditions and possibilities shall further be taken —

- (a) to take account of the needs of workers with family responsibilities in community planning; and
- (b) to develop or promote community services, public or private, such as child-care and family services and facilities.

Article 6

The competent authorities and bodies in each country shall take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

Article 7

All measures compatible with national conditions and possibilities, including measures in the field of vocational guidance and training, shall be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

Article 8

Family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Article 9

The provisions of this Convention may be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions.

Article 10

1. The provisions of this Convention may be applied by stages if necessary, account being taken of national conditions: Provided that such measures of implementation as are taken shall apply in any case to all the workers covered by Article 1, paragraph 1.

2. Each Member which ratifies this Convention shall indicate in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization in what respect, if any, it intends to make use of the faculty given by paragraph 1 of this Article, and shall state in subsequent reports the extent to which effect has been given or is proposed to be given to the Convention in that respect.

Article 11

Employers' and workers' organizations shall have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of this Convention.

Recommendation No. 165

Recommendation concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities

.....

I. DEFINITION, SCOPE AND MEANS OF IMPLEMENTATION

1. (1) This Recommendation applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

(2) The provisions of this Recommendation should also be applied to men and women workers with responsibilities in relation to other members of their immediate family who need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

(3) For the purposes of this Recommendation, the terms "dependent child" and "other member of the immediate family who needs care or support" mean persons defined as such in each country by one of the means referred to in Paragraph 3 of this Recommendation.

(4) The workers covered by virtue of subparagraphs (1) and (2) of this Paragraph are hereinafter referred to as "workers with family responsibilities".

2. This Recommendation applies to all branches of economic activity and all categories of workers.

3. The provisions of this Recommendation may be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions.

4. The provisions of this Recommendation may be applied by stages if necessary, account being taken of national conditions: Provided that such measures of implementation as are taken should apply in any case to all the workers covered by Paragraph 1, subparagraph (1).

5. Employers' and workers' organizations should have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of this Recommendation.

II. NATIONAL POLICY

6. With a view to creating effective equality of opportunity and treatment for men and women workers, each Member should make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

7. Within the framework of a national policy to promote equality of opportunity and treatment for men and women workers, measures should be adopted and applied with a view to preventing direct or indirect discrimination on the basis of marital status or family responsibilities.

8. (1) For the purposes of Paragraphs 6 and 7 above, the term "discrimination" means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

(2) During a transitional period special measures aimed at achieving effective equality between men and women workers should not be regarded as discriminatory.

9. With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities should be taken —

- (a) to enable workers with family responsibilities to exercise their right to vocational training and to free choice of employment;
- (b) to take account of their needs in terms and conditions of employment and in social security; and
- (c) to develop or promote child-care, family and other community services, public or private, responding to their needs.

10. The competent authorities and bodies in each country should take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

11. The competent authorities and bodies in each country should take appropriate measures —

- (a) to undertake or promote such research as may be necessary into the various aspects of the employment of workers with family responsibilities with a view to providing objective information on which sound policies and measures may be based; and
- (b) to promote such education as will encourage the sharing of family responsibilities between men and women and enable workers with family responsibilities better to meet their employment and family responsibilities.

III. TRAINING AND EMPLOYMENT

12. All measures compatible with national conditions and possibilities should be taken to enable workers with family responsibilities to become and remain integrated in

the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

13. In accordance with national policy and practice, vocational training facilities and, where possible, paid educational leave arrangements to use such facilities should be made available to workers with family responsibilities.

14. Such services as may be necessary to enable workers with family responsibilities to enter or re-enter employment should be available, within the framework of existing services for all workers or, in default thereof, along lines appropriate to national conditions; they should include, free of charge to the workers, vocational guidance, counselling, information and placement services which are staffed by suitably trained personnel and are able to respond adequately to the special needs of workers with family responsibilities.

15. Workers with family responsibilities should enjoy equality of opportunity and treatment with other workers in relation to preparation for employment, access to employment, advancement within employment and employment security.

16. Marital status, family situation or family responsibilities should not, as such, constitute valid reasons for refusal or termination of employment.

IV. TERMS AND CONDITIONS OF EMPLOYMENT

17. All measures compatible with national conditions and possibilities and with the legitimate interests of other workers should be taken to ensure that terms and conditions of employment are such as to enable workers with family responsibilities to reconcile their employment and family responsibilities.

18. Particular attention should be given to general measures for improving working conditions and the quality of working life, including measures aiming at —

- (a) the progressive reduction of daily hours of work and the reduction of overtime, and
- (b) more flexible arrangements as regards working schedules, rest periods and holidays, account being taken of the stage of development and the particular needs of the country and of different sectors of activity.

19. Whenever practicable and appropriate, the special needs of workers, including those arising from family responsibilities, should be taken into account in shift-work arrangements and assignments to night work.

20. Family responsibilities and considerations such as the place of employment of the spouse and the possibilities of educating children should be taken into account when transferring workers from one locality to another.

21. (1) With a view to protecting part-time workers, temporary workers and homeworkers, many of whom have family responsibilities, the terms and conditions on which these types of employment are performed should be adequately regulated and supervised.

(2) The terms and conditions of employment, including social security coverage, of part-time workers and temporary workers should be, to the extent possible, equivalent

to those of full-time and permanent workers respectively; in appropriate cases, their entitlement may be calculated on a *pro rata* basis.

(3) Part-time workers should be given the option to obtain or return to full-time employment when a vacancy exists and when the circumstances which determined assignment to part-time employment no longer exist.

22. (1) Either parent should have the possibility, within a period immediately following maternity leave, of obtaining leave of absence (parental leave), without relinquishing employment and with rights resulting from employment being safeguarded.

(2) The length of the period following maternity leave and the duration and conditions of the leave of absence referred to in subparagraph (1) of this Paragraph should be determined in each country by one of the means referred to in Paragraph 3 of this Recommendation.

(3) The leave of absence referred to in subparagraph (1) of this Paragraph may be introduced gradually.

23. (1) It should be possible for a worker, man or woman, with family responsibilities in relation to a dependent child to obtain leave of absence in the case of its illness.

(2) It should be possible for a worker with family responsibilities to obtain leave of absence in the case of the illness of another member of the worker's immediate family who needs that worker's care or support.

(3) The duration and conditions of the leave of absence referred to in subparagraphs (1) and (2) of this Paragraph should be determined in each country by one of the means referred to in Paragraph 3 of this Recommendation.

V. CHILD-CARE AND FAMILY SERVICES AND FACILITIES

24. With a view to determining the scope and character of the child-care and family services and facilities needed to assist workers with family responsibilities to meet their employment and family responsibilities, the competent authorities should, in cooperation with the public and private organizations concerned, in particular employers' and workers' organizations, and within the scope of their resources for collecting information, take such measures as may be necessary and appropriate —

- (a) to collect and publish adequate statistics on the number of workers with family responsibilities engaged in or seeking employment and on the number and age of their children and of other dependants requiring care; and
- (b) to ascertain, through systematic surveys conducted more particularly in local communities, the needs and preferences for child-care and family services and facilities.

25. The competent authorities should, in cooperation with the public and private organizations concerned, take appropriate steps to ensure that child-care and family services and facilities meet the needs and preferences so revealed; to this end they should, taking account of national and local circumstances and possibilities, in particular —

- (a) encourage and facilitate the establishment, particularly in local communities, of plans for the systematic development of child-care and family services and facilities, and

- (b) themselves organize or encourage and facilitate the provision of adequate and appropriate child-care and family services and facilities, free of charge or at a reasonable charge in accordance with the workers' ability to pay, developed along flexible lines and meeting the needs of children of different ages, of other dependants requiring care and of workers with family responsibilities.

26. (1) Child-care and family services and facilities of all types should comply with standards laid down and supervised by the competent authorities.

(2) Such standards should prescribe in particular the equipment and hygienic and technical requirements of the services and facilities provided and the number and qualifications of the staff.

(3) The competent authorities should provide or help to ensure the provision of adequate training at various levels for the personnel needed to staff child-care and family services and facilities.

VI. SOCIAL SECURITY

27. Social security benefits, tax relief, or other appropriate measures consistent with national policy should, when necessary, be available to workers with family responsibilities.

28. During the leave of absence referred to in Paragraphs 22 and 23, the workers concerned may, in conformity with national conditions and practice, and by one of the means referred to in Paragraph 3 of this Recommendation, be protected by social security.

29. A worker should not be excluded from social security coverage by reference to the occupational activity of his or her spouse and entitlement to benefits arising from that activity.

30. (1) The family responsibilities of a worker should be an element to be taken into account in determining whether employment offered is suitable in the sense that refusal of the offer may lead to loss or suspension of unemployment benefit.

(2) In particular, where the employment offered involves moving to another locality, the considerations to be taken into account should include the place of employment of the spouse and the possibilities of educating children.

31. In applying Paragraphs 27 to 30 of this Recommendation, a Member whose economy is insufficiently developed may take account of the national resources and social security arrangements available.

VII. HELP IN EXERCISE OF FAMILY RESPONSIBILITIES

32. The competent authorities and bodies in each country should promote such public and private action as is possible to lighten the burden deriving from the family responsibilities of workers.

33. All measures compatible with national conditions and possibilities should be taken to develop home-help and home-care services which are adequately regulated and supervised and which can provide workers with family responsibilities, as necessary, with qualified assistance at a reasonable charge in accordance with their ability to pay.

34. Since many measures designed to improve the conditions of workers in general can have a favourable impact on those of workers with family responsibilities, the competent authorities and bodies in each country should promote such public and private action as is possible to make the provision of services in the community, such as public transport, supply of water and energy in or near workers' housing and housing with labour-saving layout, responsive to the needs of workers.

VIII. EFFECT ON EXISTING RECOMMENDATIONS

35. This Recommendation supersedes the Employment (Women with Family Responsibilities) Recommendation, 1965.

APPENDIX II

Information available under articles 19 and 22 of the Constitution

Member States	Convention No. 156		Recommendation No. 165
	Article 22	Article 19	Article 19
Afghanistan		—	—
Albania		—	—
Algeria		X	X
Angola		X	X
Antigua and Barbuda		—	—
Argentina	R		X
Australia	R	X	X
Austria		X	X
Bahamas		X	X
Bahrain		X	X
Bangladesh		X	X
Barbados		—	—
Belarus		X	X
Belgium		X	X
Belize		—	—
Benin		X	X
Bolivia		X	X
Botswana		X	X
Brazil		X	X
Bulgaria		—	—
Burkina Faso		X	X
Burundi		X	X
Cambodia		—	—
Cameroon		X	X
Canada		X	X
Cape Verde		X	X
Central African Republic		—	—
Chad		X	X
Chile		X	X

Member States	Convention No. 156		Recommendation No. 165
	Article 22	Article 19	Article 19
China		X	X
Colombia		X	X
Comoros		—	—
Congo		X	X
Costa Rica		—	—
Côte d'Ivoire		—	—
Cuba		X	X
Cyprus		X	X
Denmark		—	—
Djibouti		—	—
Dominica		—	—
Dominican Republic		X	X
Ecuador		X	X
Egypt		X	X
El Salvador		—	—
Equatorial Guinea		—	—
Ethiopia	R		—
Fiji		X	X
Finland	R		X
France	R		X
Gabon		—	—
Germany		X	X
Ghana		X	X
Greece	R		X
Grenada		X	X
Guatemala		—	—
Guinea		—	—
Guinea-Bissau		—	—
Guyana		—	—
Haiti		—	—
Honduras		X	X
Hungary		X	X
Iceland		—	—
India		—	—
Indonesia		X	X
Iran, Islamic Republic of		X	X
Iraq		—	—
Ireland		X	X
Israel		X	X
Italy		X	X
Jamaica		—	—
Japan		X	X
Jordan		X	X

Member States	Convention No. 156		Recommendation No. 165
	Article 22	Article 19	Article 19
Kenya		X	X
Kuwait		—	—
Lao People's Democratic Republic		X	X
Lebanon		X	X
Lesotho		—	—
Liberia		—	—
Libyan Arab Jamahiriya		—	—
Lithuania		X	X
Luxembourg		—	—
Madagascar		—	—
Malawi		—	—
Malaysia		—	—
Mali		X	X
Malta		X	X
Mauritania		—	—
Mauritius		—	—
Mexico		X	X
Mongolia		—	—
Morocco		X	X
Mozambique		X	X
Myanmar		—	—
Namibia		—	—
Nepal		—	—
Netherlands	R		X
New Zealand		X	X
Nicaragua		—	—
Niger	R		X
Nigeria		—	—
Norway	R		X
Pakistan		—	—
Panama		—	—
Papua New Guinea		—	—
Paraguay		—	—
Peru	R		—
Philippines		X	X
Poland		X	X
Portugal	R		X
Qatar		—	—
Romania		X	X
Russian Federation		—	—
Rwanda		X	X
Saint Lucia		—	—
San Marino	R		X

Member States	Convention No. 156		Recommendation No. 165
	Article 22	Article 19	Article 19
Sao Tome and Principe		—	—
Saudi Arabia		X	X
Senegal		—	—
Seychelles		—	—
Sierra Leone		—	—
Singapore		X	X
Solomon Islands		—	—
Somalia		—	—
Spain	R		X
Sri Lanka		X	X
Sudan		X	X
Suriname		X	X
Swaziland		—	—
Sweden	R		X
Switzerland		X	X
Syrian Arab Republic		X	X
Tanzania, United Republic of		X	X
Thailand		—	—
Togo		X	X
Trinidad and Tobago		—	—
Tunisia		X	X
Turkey		X	—
Uganda		—	—
Ukraine		X	X
United Arab Emirates		X	X
United Kingdom		X	X
United States		X	X
Uruguay	R		—
Venezuela	R		—
Yemen	R		—
Yugoslavia	R		—
Zaire		X	X
Zambia		—	—
Zimbabwe		—	—
Total	18	71	82

Note

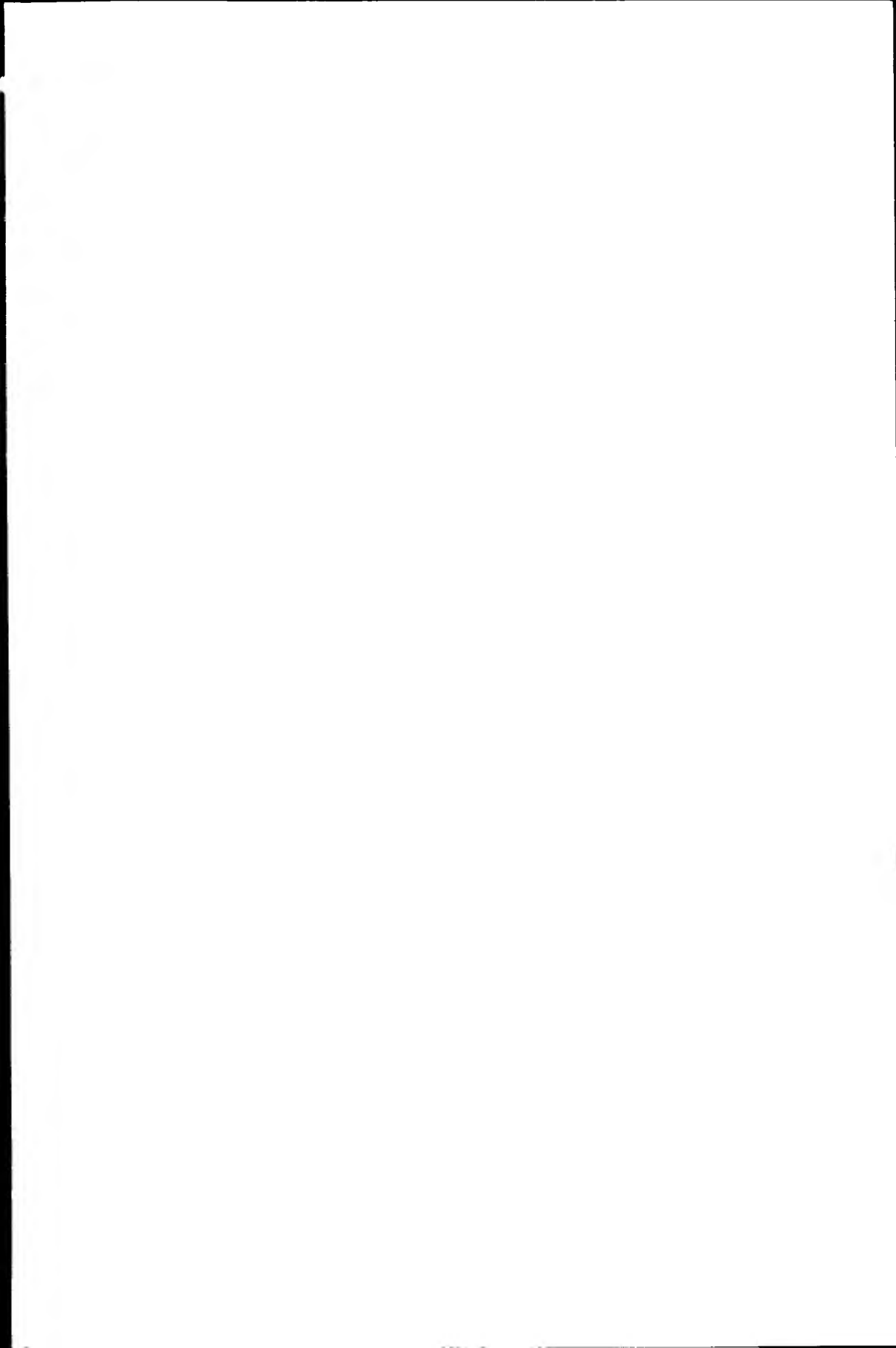
In addition, a total of 22 reports have been received, under article 19 of the Constitution, in respect of the following non-metropolitan territories: United Kingdom (Anguilla, Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Hong Kong, Isle of Man, Jersey, Monserrat, St. Helena).

R = ratified Convention.

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

— = reports requested and not received (under article 19 of the Constitution).





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