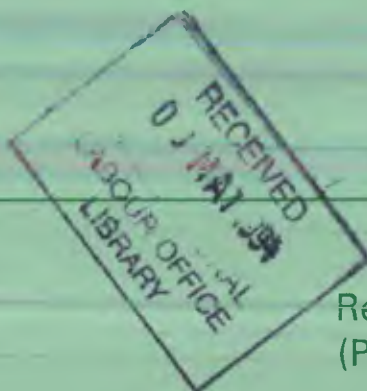


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International Labour Conference
81st Session 1994



Report III
(Part 4A)

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

**General report
and observations concerning particular countries**



International Labour Office Geneva

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International Labour Conference
81st Session 1994

Report III
(Part 4 A)

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

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

(Articles 19, 22 and 35 of the Constitution)

General report
and observations concerning particular countries

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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

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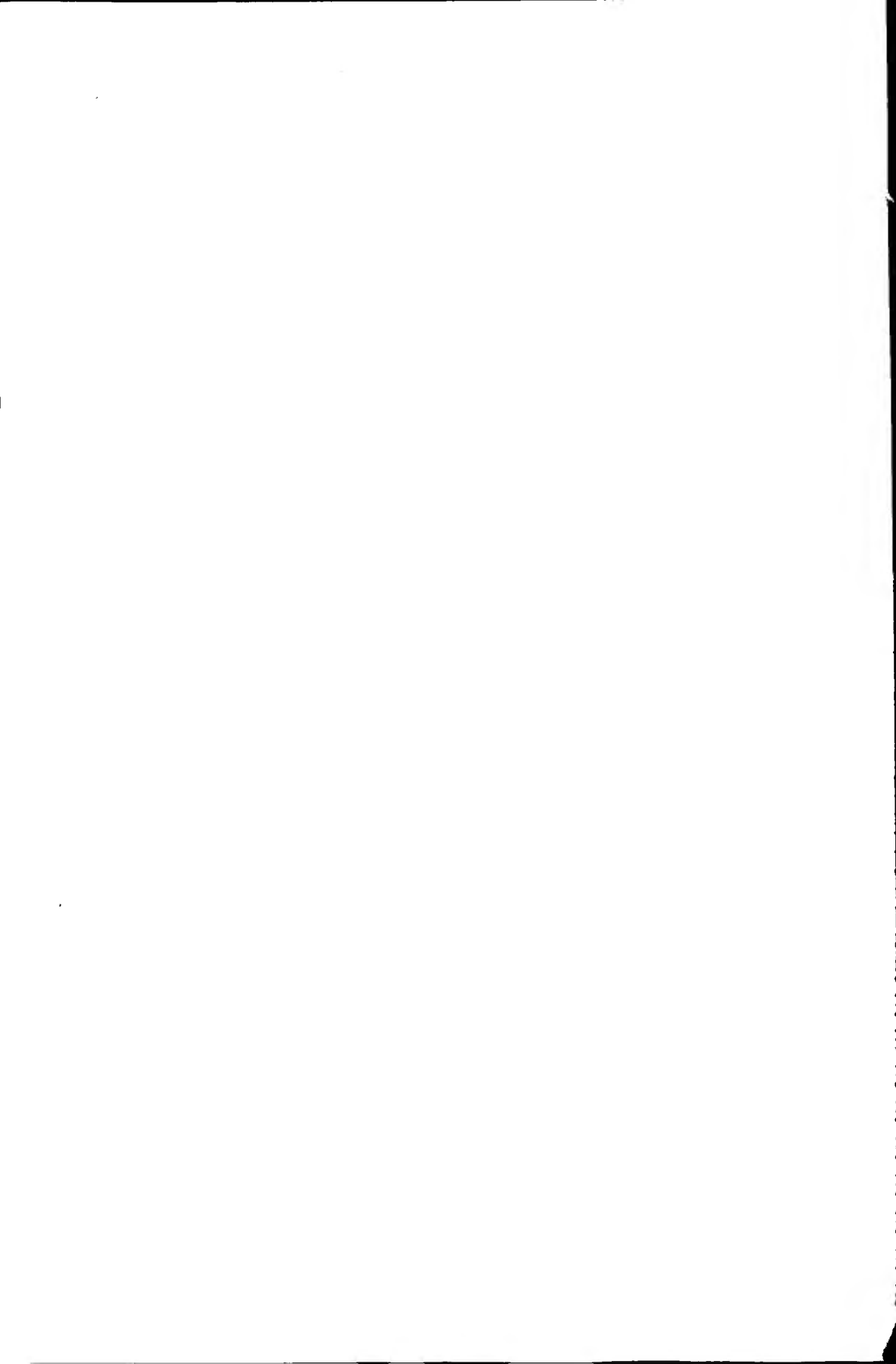
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¹ The roman numerals and letters refer to sections of Part Two of this report and the arabic numerals to the numbers of the Conventions.

² The abbreviations used in respect of direct requests are the following:

"Art. 22": application of ratified Conventions in member States.

"Art. 35": application of ratified Conventions in non-metropolitan territories.

"Subm.": submission of Conventions and Recommendations to the competent authorities. The numbers refer to Conventions.

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Thailand	General Report, paras. 120, 129 I A and B, Nos. 29, 105, 127 III	Art. 22, Nos. 29, 88, 105, 122
Togo		Art. 22, Nos. 29, 100
Trinidad and Tobago	General Report, para. 154 I B, Nos. 87, 98 III	Art. 22, Nos. 29, 85, 111

REPORT OF THE COMMITTEE OF EXPERTS

Country	Observations made by the Committee (published in the present Report) ¹	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) ²
Tunisia	I 8, Nos. 29, 55, 113, 127	Art. 22, Nos. 29, 81, 100, 108, 142, 159
Turkey	I 8, Nos. 98, 122, 127	Art. 22, Nos. 58, 88, 100
Uganda	I 8, Nos. 17, 81, 98 III	Art. 22, Nos. 29, 122, 154, 158, 159, 162
Ukraine	I 8, No. 29	Art. 22, general Art. 22, Nos. 29, 100, 120 Subm.
United Arab Emirates	General Report, para. 120	Art. 22, general Art. 22, Nos. 1, 29, 81 Subm.
United Kingdom	I 8, Nos. 29, 87, 98, 100, 147, 148, 151 II 8, Nos. 17, 98, 147, 151	Art. 22, Nos. 29, 81, 99, 100, 101, 108, 148 Art. 35, Nos. 14, 17, 29, 81, 98, 108, 122, 133, 147, 148 Subm.
United States		Art. 22, Nos. 147, 160 Art. 35, No. 147
Uruguay	I 8, Nos. 98, 122, 128	Art. 22, Nos. 100, 103, 122, 128, 133, 137, 148, 151, 155, 156, 159, 161 Subm.
Venezuela	I 8, Nos. 22, 29, 41, 87, 98, 102, 150, 155, 156 III	Art. 22, Nos. 22, 88, 100, 111, 121, 127, 128, 138, 144, 149, 155, 156, 158
Yemen	General Report, para. 125 I A and B, Nos. 81, 87, 98 III	Art. 22, Nos. 81, 95, 100, 111, 131, 135
Yugoslavia	I A	
Zaire	General Report, paras. 120, 129, 154, 158 I 8, Nos. 29, 81, 88, 98, 119, 121 III	Art. 22, general Art. 22, Nos. 29, 62, 100, 102, 118, 158
Zambia	I 8, Nos. 29, 100, 148	Art. 22, Nos. 29, 100, 103, 149, 159 Subm.
Zimbabwe		Art. 22, Nos. 14, 100, 144

PART ONE

GENERAL REPORT



GENERAL REPORT

I. INTRODUCTION

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 64th Session in Geneva from 10 to 25 February 1994. The Committee has the honour to present its report to the Governing Body.

2. The Committee noted that Messrs. S. IVANOV and A.J. SUVIRANTA had ceased to be members. It paid tribute to the contribution that they had made to the work of the Committee for many years.

3. The Governing Body had appointed Ms. R.A. LAYTON and Mr. R.Z. LIVSHITZ members of the Committee. The Committee was pleased to welcome them to its present session.

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

Mr. Benjamin AARON (United States),

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

Mr. Roberto AGO (Italy),

Judge of the International Court of Justice; Emeritus Professor of International Law, Faculty of Law, University of Rome; former member and President of the United Nations International Law Commission; President of the Vienna Conference for the Codification of the Law on Treaties (1968-69); former Chairman of the ILO Governing Body; Chairman of the Committee on Freedom of Association of the ILO Governing Body; former President of the Institute of International Law; President of the Curatorium of the Academy of International Law at The Hague; member of the Permanent Court of Arbitration;

Mrs. Badria AL-AWADHI (Kuwait),

Barrister-at-Law; former Dean of the Faculty of Law, Kuwait; former Professor of Public International Law, Kuwait University; member of the International Commission of Jurists; Vice-President of the International Federation of Women Lawyers; member of the International Law Association; member of the International Council of Environmental Law; member of the Arab Court of Arbitration;

Mr. Prafullachandra Natvarlal BHAGWATI (India),

Former Chief Justice of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government of India; former Chairman of the Committee appointed by the Government of India for implementing legal aid schemes in the country; member of the International Committee on Human Rights of the International Law Association; member of the Editorial Committee of Reports of the Commonwealth; Chairman of the National Committee for Social and Economic Welfare of the Government of India; Ombudsman for the national newspaper Times of India; Chairman of the Advisory Board of the Centre for Independence of Judges and Lawyers, Geneva; Vice-President of El Taller; Chairman of the Panel for Social Audit of Telecom and Postal Services in India;

The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados),

Former Ambassador; former Chief Justice of Barbados; former Chairman, Commonwealth Caribbean Council of Legal Education; former Chairman, Inter-American Juridical Committee; former Judge of the High Court of Jamaica;

Ms. Robyn A. LAYTON, Q.C. (Australia),

Chairperson of the Australian Health Ethics Committee of the National Health and Medical Research Council; former Honorary Solicitor for the South Australian Council for Civil Liberties; former Solicitor for the Central Aboriginal Land Council; former Chairman of the South Australian Sex Discrimination Board; former Judge and Deputy President of the South Australian Industrial Court and Commission; former Deputy President of the Federal Administrative Appeals Tribunal; Barrister-at-Law;

Mrs. Ewa LETOWSKA (Poland),

Professor of Civil Law (Institute of Legal Studies of the Polish Academy of Sciences); former parliamentary ombudsman; former member of the Legislative Council to the Council of Ministers; former member of the Commission for the Reform of Civil Law; member of the Helsinki Committee;

Mr. Roman Zinovievich LIVSHITZ (Russian Federation),

Doctor of Law; Principal Researcher at the Institute of State and Law of the Academy of Sciences of the Russian Federation; Professor of Labour Law and Jurisprudence at the Moscow International (Russian-American) University; member of the

GENERAL REPORT

Scientific Advisory Council at the Supreme Court of the Russian Federation;

Bernd Baron von MAYDELL (Germany),

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

Mr. Kéba MBAYE (Senegal),

Former Vice-President of the International Court of Justice; First Honorary President of the Supreme Court of Senegal; former President of the Constitutional Council of Senegal; member of the Institute of International Law; member of the Curatorium of the Academy of International Law; former President of the International Commission of Jurists; former President of the United Nations Commission on Human Rights; Deputy President of the International Court of Arbitration of the International Chamber of Commerce; member of the Royal Academy of Overseas Science of Belgium and of the Academy of Politics and Ethics of France;

Mr. Cassio MESQUITA BARROS (Brazil),

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

Mr. Benjamin Obi NWABUEZE (Nigeria),

LLD (London); Hon. LLD (University of Nigeria); Senior Advocate of Nigeria; 1980 Laureate of the Nigerian National Merit Award; former Professor of Law at the University of Nigeria; former Professor and Dean of the Faculty of Law at the University of Zambia; former member, Governing Council, Nigerian Institute of International Affairs and Fellow of the Institute; former member, Governing Council, Nigerian Institute of Advanced Legal Studies; member, Council of Legal Education; former Minister of Education for Nigeria; Constitutional Adviser to the Government of Kenya (1992), Ethiopia (1992) and Zambia (1993);

- Mr. Edilbert RAZAFINDRALAMBO (Madagascar),
Honorary First President of the Supreme Court of Madagascar; former President of the High Court of Justice; former Professor of Law at the University of Madagascar; former Arbitrator of the ICSID and of the International Civil Aviation Organization; judge of the Administrative Tribunal of the ILO; former member of the International Council for Commercial Arbitration; former member of the International Court of Arbitration of the International Chamber of Commerce; Alternate Chairman of the Staff Committee of Appeals, African Development Bank; member of the United Nations International Law Commission;
- Mr. José María RUDA (Argentina),
Former President of the International Court of Justice; former President of the United States-Iran Claims Tribunal; member of the Institute of International Law; former representative of Argentina to the United Nations; former Under-Secretary of Foreign Affairs; former member and President of the United Nations International Law Commission; member of the Permanent Court of Arbitration;
- Mr. Boon Chiang TAN (Singapore),
BBM, PPA, LLB, (London) Dip. Arts, Barrister-at-Law and Solicitor, Singapore; former President of the Industrial Arbitration Court of Singapore; former member of the Court and Council of the University of Singapore; former President, Copyright Tribunal; former Chairman, Income Tax Board of Review; Valuation Review Board; Hotels Licensing Board; Tenants' Compensation Board; former Vice-President (Asia) of the International Society of Labour Law and Social Security;
- Mr. Fernando URIBE RESTREPO (Colombia),
Barrister-at-law; former member of the Supreme Court of Justice of Colombia; former President of the Court of Justice of the Cartagena Accord; former President of the Supreme Court of Colombia; former Professor of International Labour Law at the National University of Colombia; former Professor of Labour Law, Universities Externado de Colombia and Pontificia Javeriana; former Professor of Philosophy of Law at the Bolivarian University of Medellín;
- Mr. Jean Maurice VERDIER (France),
Professor of Labour Law at the University of Paris X; Honorary President of the University of Paris X; Honorary Dean of the Faculty of Law and Economics; Director of the Institute for Research on Undertakings and Industrial Relations of the University of Paris X (associate of the National Centre for Scientific Research); former Director of the Institute of Labour Social Sciences, University of Paris I; Vice-President of Libre Justice, the French section of the International Commission of Jurists; former Professor at the Faculties of Law and Economics at Tunis (1956-61) and Algiers (1965-68); former President and Honorary President of the International Society of Labour Law and

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Social Security; former President and Honorary President of the French Association of Labour and Social Security Law;

Mr. Budislav VUKAS (Croatia),

Professor of Public International Law at the University of Zagreb, Faculty of Law; associate member of the Institute of International Law; member of the Conference on Security and Cooperation in Europe (CSCE) Dispute Settlement Mechanism; member of the Working Group on National Minorities of the Central European Initiative; member of the International Council of Environmental Law; member of the Commission on Environmental Law of the International Union for Conservation of Nature and Natural Resources; former member of the Permanent Court of Arbitration;

Sir John WOOD (United Kingdom),

CBE, LL.M.; Barrister; Chairman of the Central Arbitration Committee;

Mr. Toshio YAMAGUCHI (Japan),

Honorary Professor of Law at the University of Tokyo, Professor of Law at Kanagawa University; member of the Japanese Central Committee of Labour Relations; former member of the Executive Committee of the International Society of Labour Law and Social Security; full member of the International Academy of Comparative Law.

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

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

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

7. The Committee, after an examination and evaluation of the above-mentioned reports and information, drew up its present report, consisting essentially of the following three parts: Part One is the General Report in which the Committee reviews general questions concerning international labour standards and related instruments and their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 113 to 144 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 113 to 144 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 145 to 155 below). Part Three, which is published in a

separate volume (Report III (Part 4B)) reviews the reports supplied by governments under article 19 of the Constitution on the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (see paragraphs 156 to 160 below).

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

9. In this context, the Committee noted the attendance of the Chairman of its 63rd Session as an observer at the general discussion of the Committee on the Application of Standards of the 80th Session of the International Labour Conference (June 1993). It noted the decision of the Conference Committee on the Application of Standards to request the Director-General to invite the Chairman of the 64th Session of the Committee of Experts on the Application of Conventions and Recommendations to attend once again as an observer the general discussion of the Committee on the Application of Standards of the 81st Session of the International Labour Conference (June 1994). The Committee welcomed the invitation.

II. SEVENTY-FIFTH ANNIVERSARY OF THE ILO

THE STANDARD-SETTING ACTIVITIES OF THE INTERNATIONAL LABOUR ORGANIZATION: THE PRESENT AND THE FUTURE

1. Introduction

10. The 75th anniversary of the founding of the ILO will generate a wide-ranging discussion of the Organization's activities. The Committee of Experts on the Application of Conventions and Recommendations wishes to associate itself with the commemoration of the anniversary and to participate in the process of reflection afforded by this occasion. In this regard, the Committee has paid attention mainly to the possibilities of improving the application of international labour standards. In accordance with its mandate and in the broader interests of the activities of the ILO, the Committee has put forward, for examination, some suggestions on this matter.

11. As the Preamble of the ILO Constitution proclaims, universal and lasting peace can be established only if it is based on social justice. This principle, which is affirmed in the Declaration of

Philadelphia, has always guided the action of the ILO. This same principle should be the basis for the policies of all member States, in conformity with the notion that "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries".¹

12. The ILO was founded in 1919, chiefly for the purpose of framing international legislation in the social field. That objective was confirmed in 1944. Existing international labour Conventions and Recommendations cover virtually all aspects of labour law and social security law.

13. In ILO philosophy and practice, there can be no development of international labour law without effective supervision of its application. This explains why supervision of the application of standards is ranked among the most important of the ILO's activities. ILO procedures and supervisory bodies have played a pioneering role on the international scene and still serve as a point of reference for other international organizations.

14. The framing of standards and the supervision of their application are part of the essential activities of the ILO. Suffice to recall that the number of ratifications of international labour Conventions now stands at over 6,000. In the majority of cases, States observe the obligations contained in ratified Conventions. Moreover, over the last 30 years the supervisory bodies have registered more than 2,000 cases of progress - in other words, instances of national legislation and practice being changed to meet the requirements of a ratified Convention, following comments by the supervisory bodies.

15. There have been radical changes on the international scene in recent years - the end of the Cold War, a revival of ethnic and national conflicts, growing structural unemployment in the most developed countries and structural adjustment programmes in a certain number of countries including developing countries are but a few examples. The ILO's standard-setting activities must keep pace with these changes so that the Organization can meet the challenges of the twenty-first century dynamically and effectively. The paragraphs that follow contain a brief description of the present situation and some food for thought on the future of standard-setting activities.

2. Framing and content of international labour standards

2.1 The present situation

16. The term "international labour standards" commonly refers to the international legal instruments drawn up by the International Labour Organization, in other words, the Conventions and Recommendations. The purpose of the Conventions is to establish substantive legal obligations for the member States of the ILO which

¹ Preamble of the Constitution of the International Labour Organization.

ratify them. Ratification of international labour Conventions is a matter for free decision by each State; it carries with it the legal obligation to apply ratified Conventions through domestic law, and to submit to supervision by the appropriate ILO bodies, in accordance with established procedures, in order to ensure the application of the obligations undertaken. Recommendations, which often complement Conventions, on the other hand, are guidelines for national legislation and practice. They are not subject to ratification and cannot give rise to substantive legal obligations.

17. The International Labour Conference, as the legislative body of the ILO, adopts Conventions and Recommendations. Selected subjects are placed on the agenda of the Conference by decision either of the Governing Body of the International Labour Office (article 14, paragraph 1, of the Constitution) or of the Conference itself (article 16, paragraph 3). The decisions of the Governing Body are based on studies prepared by the Office, a technical committee or experts. The technical preparation that precedes and accompanies the framing of ILO standards is the best possible guarantee that an international instrument will only be adopted once its subject-matter has reached a sufficient degree of maturity. By the time they come into being, ILO standards have already achieved a high degree of consensus, partly because they need a two-thirds majority to be adopted by the Conference, and also because government, employers' and workers' delegates participate actively in the work. The preparatory work is published for governments, employers and workers to consult, so that they can form an opinion about the bearing of the provisions.

2.2 Prospects

18. Since 1919, 174 Conventions and 181 Recommendations have been adopted by the International Labour Conference. A question which sometimes arises is whether the ILO has not exhausted its role as legislator and should perhaps suspend or abandon it. The question has become more pressing, particularly with the increase in structural adjustment programmes and growing tendency to deregulate the labour market. In recent years, however, inequalities between States and within States have not only persisted but have very often widened. That is why, in order to maintain the cohesion of the international community as well as that within States, it is necessary to use instruments of universal character aiming at the promotion of social justice, namely the standards adopted by the ILO. In this regard, it should be stressed that if the framing of standards had been suspended in recent years, there would not have been a number of important instruments such as the ones on vocational rehabilitation and employment (1983), occupational health services (1985), seafarers' social security (1987), indigenous and tribal peoples (1989), protection of workers' claims in the event of the insolvency of their employer (1992) and the prevention of major industrial accidents (1993). In the view of the present Committee, to suspend the framing of new standards would be to deprive the ILO of one of its most effective means of maintaining the pace of progress and social dialogue.

19. For some years the ILO has also focused its efforts on reviewing and updating standards which are no longer suited to reality. These efforts should be pursued. In addition, consideration should be given to revising a number of recent Conventions that have not been ratified, despite their relevance, because certain provisions are considered too inflexible and certain requirements too demanding. The general surveys produced by the Committee of Experts could be a useful reference for revising and updating standards.

20. It must be remembered that ILO instruments, whether new or revised, set minimum standards (article 19, paragraph 8, of the Constitution). As a matter of principle, Conventions should set a general framework. The desire for flexibility in the framing of international labour Conventions has been reflected in the Constitution since 1919, and has prompted many of the flexibility clauses to be found in Conventions (for example the possibility of opting for one or several parts of a Convention or of choosing between different techniques of protection and application). Wherever possible such clauses should be included in new instruments and others drawn up, as required. In addition, more detailed provisions can be included in Recommendations accompanying Conventions.

21. Implementation of certain ILO standards can have direct repercussions on national economic policy as well as on individual enterprises. This is true, for example, of standards on social security or paid leave. In framing such standards, it is important to bear in mind their economic impact so that cost does not become a disincentive to ratification. This does not apply to standards on fundamental human rights which must be observed regardless of economic circumstances or fluctuations.

22. Certain provisions of Conventions and Recommendations adopted recently have been criticized in some quarters for their lack of clarity and coherence. This cannot but affect ratification, and in any event gives rise to problems when it comes to application. While the Conference is the legislative body of the Organization, the Office is without doubt partly responsible for this state of affairs, although it may only make proposals. It would be helpful if members of the standard-setting technical committees of the Conference showed awareness of the demands of their legislative work by ensuring that the texts that are finally adopted are as coherent and clear as possible.

23. The gestation period for a Convention or Recommendation is rarely less than five years from the time when the subject is chosen. The advantage of this long gestation period is that by the time the standards are adopted they have achieved a high degree of maturation and international consensus. The disadvantage is that the ILO's legislative procedure cannot always cope with new situations which might call for rapid intervention. So, consideration should be given to using more flexible formulas such as resolutions or codes of conduct, even if it means resuming the regular procedure later.

3. Supervision of the application of standards

3.1 The present situation

24. From the beginning, the ILO Constitution established that there should be regular monitoring of the application of ratified Conventions by means of an annual report from governments (article 22 of the Constitution). It also provided for ad hoc supervision in the event of representations (articles 24 and 25) or complaints (articles 26-29, and 31-34) being submitted to the Office. In addition, it established a procedure for supervising non-ratified Conventions and Recommendations (article 19, paragraphs 5(e) and 6(d)).

25. The ILO's regular supervision procedures have been of decisive importance. The capacity to keep pace with a constantly changing environment is one of the features of the supervisory machinery. International labour Conventions have been adopted since the First Session of the International Labour Conference in 1919. Within a few years the growing number of ratifications increased the flow of annual reports. It became clear that the plenary of the Conference could no longer cope with all the reports itself. As the number of reports grew it would eventually have had to spend all its time on them to the detriment of the framing of standards and its other tasks. Besides, the legal problems raised by the application of Conventions were becoming more complex, so a technical supervisory body was needed which could examine the reports from a legal standpoint and remain uninfluenced by group interests - which would inevitably have surfaced in the Conference because of its tripartite composition. This was how the first change came about in the supervisory machinery: by a resolution adopted in 1926 the Conference decided to set up a Committee on the Application of the Conventions and Recommendations of the Conference (hereafter referred to as the Conference Committee on Standards) and a Committee of Experts on the Application of Conventions and Recommendations. The members of the latter are appointed not by governments, but by the Governing Body on the Director-General's proposal, and it is responsible, with technical support from the International Labour Standards Department, for examining, from a legal standpoint, governments' reports and any observations made by employers' and workers' organizations. The Committee of Experts' most important comments, called "observations", are published and submitted to the Conference, which transmits them to its Committee on the Application of Standards. They are examined by that Committee with the participation of the governments concerned and of delegates from national organizations of employers and workers.

26. As the years went by it became the practice, considered by some as a tradition not to be tampered with, for the Committee on the Application of Standards to deal only with cases already examined by the Committee of Experts. The Conference Committee has never operated as a review or appeals body vis-à-vis the Committee of Experts. The two bodies have different functions: the Committee of Experts is responsible for technical supervision, whereas the Conference Committee, which is tripartite, provides an opportunity for direct dialogue between governments, employers and workers, and can even mobilize international public opinion.

27. Neither of the supervisory bodies may impose sanctions of any kind, though their conclusions are sometimes regarded as political or moral sanctions. The two supervisory bodies complement each other effectively: the Committee of Experts conducts a technical and impartial examination of the cases and the Conference Committee - whose conclusions are submitted to the plenary sitting of the Conference - contributes the political weight and influence of an international forum in which governments, employers and workers may speak freely.

28. Besides the regular supervisory procedure, based on the examination of governments' reports, the ILO Constitution provides for two other procedures. Under the representation procedure, an employers' or workers' organization may submit allegations of failure by a Member of the Organization to adopt satisfactory measures, within its legal system, for the application of a Convention to which it is a party. If the representation meets the formal requirements of receivability,¹ it is sent to the government concerned and the case is submitted for examination by a tripartite committee set up for the purpose within the Governing Body, whose conclusions and recommendations may be published.

29. The complaints procedure is more elaborate than the representation procedure in terms of the rules of the Constitution that govern it. Under this procedure any member State of the ILO may file a complaint to the Office against another Member which, in its opinion, has not adopted the necessary measures to give proper effect to a Convention ratified by both Members. This procedure provides all the guarantees of a regular procedure. It should be pointed out that the complaints procedure may also be initiated by the Governing Body of its own motion, or by a delegate to the Conference.

30. Complaints are referred to commissions of inquiry appointed specifically for each case and composed of independent persons of international repute. The conclusions and recommendations of the commissions are published in the ILO Official Bulletin and may be challenged before the International Court of Justice whose ruling is final. If a Member fails within the prescribed time-limit to give effect to the recommendations of the commission of inquiry or the decision of the International Court of Justice, the Governing Body may recommend to the Conference any measures it deems necessary to ensure that the recommendations are observed. The government against which the complaint is filed may at any time inform the Governing Body that it has taken the necessary measures to implement the recommendations of the commission of inquiry or the Court's decision. In practice, no economic or other sanctions have been applied in the context of this procedure.

31. The procedure laid down in article 19(5)(e) and (6)(d) of the Constitution is not a supervisory one in the strict sense, since it is concerned with the action taken by member States in respect of unratified Conventions and of Recommendations. In practice, however, the General Surveys made each year under article 19 by the Committee

¹ Doc. GB.212/205, para. 64.

of Experts on instruments selected by the Governing Body contain an analysis of domestic laws and comments by the Committee of Experts on their consistency with the instruments in question. These surveys have continued to grow in importance. Today they serve as a reference for the whole standards supervision system.

32. The above procedures were laid down in the Constitution in 1919. Since the Second World War, two other supervisory procedures have been introduced, one for freedom of association and the other for equal treatment. These procedures are based on the universal values and principles set forth in the preamble to the Constitution and in the Philadelphia Declaration (incorporated in the Constitution).

33. The special procedure for complaints concerning freedom of association was established in 1950 by an agreement between the United Nations Economic and Social Council (ECOSOC) and the ILO. The most original feature of this procedure is the fact that the receivability of a complaint is not necessarily linked to the ratification of the relevant Conventions by the State in question, but rests on the fundamental principles deriving from the Constitution. One of the supervisory bodies which intervene in this procedure is the Fact-Finding and Conciliation Commission on Freedom of Association, a standing commission set up by the Governing Body along the lines of the commission of inquiry provided for in article 26 of the Constitution. A tripartite committee (Committee on Freedom of Association) was also set up within the Governing Body initially for the purpose of determining which complaints should be submitted to the Fact-Finding and Conciliation Commission. The latter was to have been the centre of gravity of the procedure. But events ruled otherwise. Under the new procedure the government against which the complaint was lodged was to give its consent for the case to be submitted to the Commission. However, as States were reluctant to give their consent, the scope of action of the Committee on Freedom of Association gradually broadened, particularly in cases where an urgent decision was needed. Today, the Committee is undeniably the real centre of gravity of this special procedure.

34. A procedure for equal treatment issues was established in 1973. It enables the Director-General to undertake special studies on issues of discrimination in employment on grounds of race, religion, national extraction, social origin, membership of a minority, or sex. The government brought to task has to give its prior consent. This special procedure has never been used.

35. Although it is not strictly speaking a supervisory procedure, mention should also be made of the direct contacts procedure officially inaugurated in 1968, on the basis of a series of principles established by the Committee of Experts and approved by the Conference Committee on the Application of Standards.¹ Its purpose is to enable a representative of the Director-General to examine with the government concerned how to overcome any difficulties in applying a ratified Convention or observing constitutional obligations

¹ See ILC, 63rd Session, 1977, Report III(4A), para. 38 "Principles governing the procedure of direct contacts".

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regarding standards, or any obstacles in the way of ratification. The government must make a request for direct contacts. In the case of ratified Conventions, the information gathered by the Director-General's representative is sent to the Committee of Experts. This procedure is frequently used; it has enabled serious discrepancies noted by the supervisory bodies to be overcome. Direct contacts have also been used frequently and successfully in the context of the freedom of association procedure. In this context, such direct contacts could bring about further development, especially if governments concerned adopt a more open attitude.

3.2 Prospects

36. The ILO's supervisory system has earned wide international recognition for its efficiency, but it could be further improved. A general question which arises in this context is whether the present supervisory machinery should not be opened up to individuals, which is not now the case. If individuals had access to redress on matters concerning ratified Conventions or fundamental principles whose content lends itself to such a procedure (for example, freedom of association, equal treatment or freedom of work), the field of action of the ILO's supervisory system would certainly be broadened. Before such a decision were taken, however, an assessment would have to be made of the human and financial resources needed to deal with such cases properly, taking account, in particular, of the universal nature of the ILO and the potential for conflicts in the social sector. As things now stand, it seems that opening up the system to individuals cannot be envisaged; besides, they can transmit their comments on the application of ratified Conventions through organizations of employers and workers, which are entitled to present their observations for the consideration of the supervisory bodies.

37. Another question which is being asked with increasing frequency is what compensation could be envisaged for persons or bodies adversely affected by the failure to apply Conventions or the principles laid down in the ILO Constitution. Some of the supervisory bodies, particularly the Committee on Freedom of Association, have already recommended such compensation. It is a matter that requires further discussion.

38. Generally speaking, it can be said that the regular supervisory procedure, based on article 22 of the Constitution, has on the whole given satisfaction and that it should continue to be at the core of the ILO's system of supervision. But certain adjustments have been necessary: the growing number of ratifications, in itself a clear sign that member States approve of the ILO's standard-setting activities, has led to a state of saturation both in the supervisory bodies and in the national administrations responsible for preparing reports. The Governing Body adopted proposals on this issue at its November 1993 Session.¹ It also decided to bring forward the date of the Committee of Experts' annual meeting to December which,

¹ Document GB.258/6/19. See also para. 113 below.

amongst other things, will enable the Committee's report to be published earlier. These adjustments will take effect in 1995 and should make the procedure more efficient at no extra cost.

39. The division of functions between the Committee of Experts and the Conference Committee on Standards has been one of the keys to the success of the ILO's supervisory system in that the complementary nature of the independent examination carried out by the Committee of Experts and the tripartite examination of the Conference Committee on Standards makes it possible to maintain a desirable balance in the treatment of cases. In the present Committee's view, communication and dialogue between the two committees should be improved. With this in mind, the Conference Committee on Standards invited the Chairman of the Committee of Experts to attend its general discussion as an observer in June 1993. The initiative proved to be most satisfactory and the invitation has been renewed for 1994. This is an important step towards improving the dialogue between the two supervisory bodies.

40. The constitutional representation and complaint procedures have, on the whole, been satisfactory. But, bearing in mind that procedures of commissions of inquiry in some cases lack flexibility, it may be necessary to give consideration to other procedures less expensive and more flexible.

41. The success of the procedure for complaints to the Committee on Freedom of Association of the Governing Body contrasts with what has to be called the failure of the procedure of special studies on equal treatment. It could be that the success of the former is largely due to the tripartite nature of that Committee, the competence of its members, its relatively stable membership and the regularity of its meetings (three times a year). In addition, it is flexible and expeditious and costs relatively little. The Committee on Freedom of Association has succeeded in reconciling dynamism and efficiency while maintaining the guarantees of a regular procedure. However, discrimination in employment, which is becoming increasingly topical owing to growing discrimination on grounds of sex and ethnic origin, still lacks special protection of the kind that exists for freedom of association. The same could be said of forced labour. According to the present Committee, one might envisage setting up a procedure which would deal more effectively with cases of discrimination, forced labour and child labour.

42. Because of their nature, the existing supervisory procedures do have the disadvantage that they are not always able to respond with the speed and flexibility needed to overcome serious discrepancies in the application of ratified Conventions, with the one notable exception of direct contacts. Other mechanisms such as permanent access to mediation and voluntary arbitration proposed by the Director-General in his Report to the Conference,¹ could be envisaged to complete the panoply of ILO procedures. If such mechanisms were introduced, it would be necessary to ensure that the coherence and unity of the supervisory system were preserved in all

¹ ILC, 81st Session, 1994, Report I(1) "Defending values, promoting change", p. 53.

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cases and, in particular, that the new mechanisms dovetailed with existing procedures.

4. More active participation in the supervisory system

4.1 The participation of national administrations

43. At government level, supervision of the application of standards should not be an exercise between only one ministry and the supervisory bodies and their secretariat. The preparation of the reports required under article 22 of the Constitution very often involves several services or even several ministerial departments. The obligation to report should not be regarded as a merely formal obligation, but more as a means for governments to take stock periodically of the state of their labour legislation using instruments that they have ratified voluntarily as a gauge. The recent adjustments in the reporting procedure¹ could be an opportunity for member States to consider anew the scope of this international obligation and its usefulness for the country.

44. The preparation of reports increasingly requires close cooperation between the various government bodies not only because the instruments adopted are becoming more technical but also because responsibility for their implementation is shared more widely. Clear and well-documented reports are a major prerequisite for constructive dialogue with the supervisory bodies. The main responsibility in the supervision lies with governments. It is also governments that have to decide what is to be done with the information collected for preparing the reports required under articles 19, 22 and 35 of the Constitution or, more generally, how to invest the time and work that goes into preparing the reports.

45. In this regard, the Committee would give a few examples of how the information collected in preparation for reports can be put to broader use. In certain cases, it has been considered useful to send the report to the parliamentary committee responsible for social issues, particularly when the application of a Convention raises legislative problems. In other cases, inter-ministerial bodies have been set up to prepare the reports, either on a permanent basis, or on an ad hoc basis if the supervisory bodies have noted serious difficulties. Standard-setting would benefit if all those responsible at national level were more closely involved in the supervision process. Broadening the use made of the information has a dual purpose: to improve the application of international labour standards, particularly ratified Conventions, by those responsible at national level, and to improve standard-setting activities, particularly the process for reviewing international labour standards, by obtaining a broader range of opinions on their relevance or the conditions for their application.

¹ GB.258/6/19.

4.2 The participation of employers' and workers' organizations

46. The need for more participants at the report preparation stage in the dialogue on the application of standards led the Governing Body in 1932 to decide, on the proposal of the supervisory bodies, that the report forms on ratified Conventions should ask whether the government concerned had received comments from employers' and workers' organizations.¹ The question covers all employers' and workers' organizations concerned: national central confederations, branch federations, regional or local organizations, enterprise unions, and international employers' and workers' organizations (confederations or occupational federations).

47. In addition to the right to comment on the application of ratified Conventions, certain organizations were given the right, as of 1948, to receive a copy of the report submitted by the government under article 23(2) of the Constitution which states: "Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

48. The Committee has examined in detail the arrangements for the participation of employers' and workers' organizations and made proposals to improve them.² The adjustments made to the procedure by the Governing Body at its 258th Session (November 1993) will mean greater involvement of employers' and workers' organizations; this, in turn, will require an additional effort on the part of the Office to assist those organizations in understanding ILO standards (particularly the conditions for their application in law and practice) and procedures. Such an effort would round off the activities to strengthen employers' and workers' organizations, or even contribute to establishing them where they do not yet exist. Priority should be given to measures to broaden their autonomy and make them more representative.

49. The Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), is an appropriate instrument for involving employers' and workers' organizations more closely in standard-setting activities. The present Committee believes that promoting ratification of this instrument should be a priority of the International Labour Office.

50. Progress in the organization of consultations, beginning with discussions at the national level, could help solve a number of problems encountered in applying standards. Successful consultations of this kind would avoid referral of such problems to an international body before an attempt has been made to solve them internally. In its last examination of this matter, the Committee none the less recalled

¹ GB.259/6/19.

² ILC, 57th Session, Geneva 1972, Report III(4A), Part I, paras. 28-98; ILC, 72nd Session, Geneva 1986, Report III(4A), Part I, paras. 80-115.]

that consultation does not necessarily mean agreement and that, in certain cases, despite consultations, divergencies have persisted and comments have been sent to the appropriate international bodies.

51. Cooperation seems to be emerging between organizations of employers and workers and non-governmental international organizations dealing with the protection and promotion of human rights; the former sometimes communicate through the Director-General information they have received from the latter concerning the application of Conventions in the context of the procedures referred to above. So there could well be new developments in the participation of non-governmental international organizations other than employers' and workers' in supervisory activities. There is already participation of this kind in the context of the procedure in article 26 of the Constitution; the commissions of inquiry ask non-governmental organizations to pass on any available relevant information.

5. Promotion of standards and technical cooperation

52. In the past few years the Committee has been following with great interest the different steps being taken to ensure complementarity between standard-setting activities and technical cooperation. Some of the proposals on the subject have been examined by the Governing Body¹ and the Conference itself in the general discussion on technical cooperation.² Although most of the questions raised on those occasions are outside the Committee's terms of reference, it none the less intends to lend its support to any measures taken in the context of technical cooperation to improve the application of international labour standards.

53. In the present Committee's view, technical assistance and promotion of ILO standards should continue to receive the greatest possible attention in the future. This is an area where much remains to be done. However, if emphasis is placed on these activities - which in practical terms means devoting greater financial and human resources to them - it should on no account be to the detriment of the efficiency of the supervisory system, which must remain high on the list of priorities.

* * *

54. In contributing to the discussion on developments in international labour standards and particularly developments in the

¹ Governing Body, 252nd Session (February-March 1992), GB.252/15/1, "International labour standards and technical cooperation".

² ILC, 80th Session, Geneva 1993, Report VI, "The ILO's role in technical cooperation" and Report of the Committee on Technical Cooperation, PR 24.

supervisory system and its future, the intent of the Committee was to provide a recapitulation of the present as a starting point from which to advance successfully towards the future. What matters is not so much to take stock of the past but to prepare for the future in a world which sometimes tends to forget that without freedom, democracy and social justice mankind is almost certainly doomed. Human beings must be returned to the core of the ethical, political, economic and social concerns of the international community, which should take account of the situations of the poorest and most vulnerable. The International Labour Organization still has an immense task to accomplish. It is to be hoped that the foregoing reflections will help it to remain faithful to the ideals that witnessed its birth and execute even more effectively the social mandate conferred on it by the international community. The Committee, for its part intends, within the framework of the mandate assigned to it, to pursue its action in the light of the Philadelphia Declaration to ensure that all human beings, regardless of their race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.

III. GENERAL

Membership of the Organization

55. Since the Committee's last session the number of member States of the ILO has risen from 162 to 170. The following countries became Members of the Organization: The former Yugoslav Republic of Macedonia (28 May 1993), Kazakhstan (31 May 1993), Bosnia and Herzegovina (2 June 1993), Eritrea (7 June 1993), Georgia (22 June 1993), Turkmenistan (24 September 1993), Tajikistan (26 November 1993) and Oman (31 January 1994).

New standards adopted by the Conference in 1993 and the coming into force of Conventions

56. The Committee notes that at its 80th Session (June 1993), the International Labour Conference adopted the Prevention of Major Industrial Accidents Convention (No. 174) and Recommendation (No. 181), 1993.

57. The Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172), has been ratified by Mexico and Spain and will come into force on 7 July 1994.

Ratifications and denunciations

58. In 1993, 398 ratifications by 38 member States were registered. The total number of ratifications at 31 December 1993 was 6,050. Between the beginning of 1994 and 25 February 1994, 19 ratifications by 8 member States have been registered.

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59. The total number of denunciations not accompanied by the ratification of a revised Convention was 72 at 25 February 1994.

60. Since the Committee's last session, the Director-General has registered five denunciations accompanied by the ratification of a revised Convention.

Constitutional and other procedures

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

A. Complaints submitted under article 26 of the ILO Constitution

Complaint against Sweden

62. Consultations are being pursued concerning the complaint submitted by the Employers' delegate of Sweden to the 78th (1991) Session of the International Labour Conference alleging non-observance by Sweden of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), and the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). On 11 February 1993, the Government appointed an investigator to explore and analyse the problems surrounding the question. At its 258th (November 1993) Session, the Governing Body took note of the Government's information concerning consultations entered into and measures taken in relation to the complaint. It decided to await further information from the Government on the results of that investigation before deciding on any course of action. The final report of the investigator has now been communicated and is in the process of being translated.

Complaint against Côte d'Ivoire

63. At its 256th (May 1993) Session, the Governing Body approved the interim report of the Committee on Freedom of Association relating to the complaint presented by the Workers' delegates to the 79th (1992) Session of the International Labour Conference alleging non-observance by Côte d'Ivoire of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). In November 1993, the Committee on Freedom of Association and the Governing Body requested the Government to accept a direct contacts mission.

B. Representations submitted under
article 24 of the ILO Constitution

Representation concerning the Socialist
Federal Republic of Yugoslavia

64. The Committee noted previously that the Committee established to examine the representation submitted by the International Confederation of Free Trade Unions (ICFTU) alleging non-observance by the Socialist Federal Republic of Yugoslavia of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), submitted its report to the 253rd (May-June 1992) Session of the Governing Body. The Governing Body noted that, while awaiting a decision by the United Nations, it was not possible to identify the Government concerned for the application of article 7 of the Standing Orders governing the procedure for the examination of representations submitted under articles 24 and 25 of the Constitution of the ILO. The Governing Body has still not set a date for the examination of the report.

Representation concerning Venezuela

65. In relation to the representation made by the International Organization of Employers (IOE) and the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS) alleging non-observance by Venezuela of international labour Conventions Nos. 4, 81, 87, 88, 95, 98, 100, 111, 143, 144 and 158, at its 256th (May 1993) Session, the Governing Body approved the report of the tripartite committee which was set up to examine the aspects concerning Conventions Nos. 4, 81, 88, 95, 100, 111, 143, 144 and 158. With regard to the aspects relating to Conventions Nos. 87 and 98, the Committee on Freedom of Association adopted interim conclusions and requested the Government to take measures with a view to modifying the provisions of the legislation.

Representation concerning Sweden

66. At its 258th (November 1993) Session, the Governing Body approved the report of the tripartite committee set up to examine the representation made on 28 January 1993 by the Swedish Trade Union Confederation (LO), the Swedish Confederation of Professional Employees (TCO) and the International Confederation of Free Trade Unions (ICFTU), alleging non-observance by Sweden of the Employment Injury Benefits Convention, 1964 (No. 121). It declared the procedure closed.

Representation concerning Myanmar

67. At its 255th (March 1993) Session, the Governing Body decided that the representation made by the International Confederation of Free Trade Unions (ICFTU) alleging non-observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), was receivable and set up a tripartite committee to examine the representation.

Representation concerning Poland

68. At its 257th (June 1993) Session, the Governing Body decided that the representation made by the All-Poland Alliance of Trade Unions (OPZZ), alleging non-observance by Poland of the Employment Policy Convention, 1964 (No. 122), was receivable and set up a tripartite committee to examine the representation.

Representation concerning Brazil

69. At its 258th (November 1993) Session, the Governing Body decided that the representation made by the Latin American Centre of Workers (CLAT) alleging non-observance by Brazil of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), was receivable and set up a tripartite committee to examine the representation.

C. Special procedures concerning freedom of association

70. At both of its last meetings (May and November 1993), the Committee on Freedom of Association had before it an average of 110 cases concerning nearly 50 countries from all parts of the world, in which it presented interim or final conclusions, or cases of which the examination has been adjourned pending the arrival of information from governments (287th to 291st Reports). Some of these cases have been before the Committee on two occasions. Moreover, since March 1993, 46 new cases have been submitted to the Committee. Direct contacts or advisory missions concerning cases pending before the Committee on Freedom of Association visited Colombia, El Salvador, Paraguay and Peru.

Functions in regard to other international
and regional instruments

A. International Covenant on Economic,
Social and Cultural Rights

71. In accordance with the procedure approved by the Governing Body at its 236th (May 1987) Session, by a communication dated 10 November 1993, the International Labour Office conveyed to the Secretary-General of the United Nations, for transmission to the Committee on Economic, Social and Cultural Rights, information concerning the situation in States whose reports were communicated to the Office by the United Nations, in accordance with Article 18 of the Covenant. Six of these reports concerned the implementation of Articles 6 to 9 of the Covenant, which deal with the right to work, the right to just and favourable conditions of work, freedom of association and the right to social security. Four reports concerned the implementation of Article 10 of the Covenant, which covers the protection of maternity, children and adolescents in the context of employment and work. Representatives of the International Labour

Standards Department participated in the discussion of these reports by the Committee on Economic, Social and Cultural Rights.

B. International Covenant on Civil and Political Rights

72. In conformity with the wish expressed by the Commission on Human Rights at its Eighth Session regarding the provision of information by specialized agencies, two communications dated 7 July and 27 September 1993 were sent by the International Labour Office to the Centre for Human Rights, for transmission to the Commission on Human Rights. The ILO reports concerned, respectively, five countries whose reports were due for the 48th (June 1993) Session, and six countries whose reports were due for the 49th (October-November 1993) Session of the Commission on Human Rights. All of the information submitted by the ILO to the 48th Session dealt with Articles 3 and 26 of the Covenant which cover equality between men and women and Article 8 which covers the prohibition of forced labour; and four of the reports also dealt with Articles 2 and 22 of the Covenant, which are concerned with the prohibition of discrimination and freedom of association, respectively. For the 49th Session, the ILO once again submitted information on Article 8 (four countries), Article 2 (three countries) and Articles 3, 26 and 22 (six countries). A representative of the International Labour Standards Department attended the 48th and 49th Sessions.

C. United Nations Convention on the Elimination of All Forms of Discrimination Against Women

73. In accordance with Article 22 of this Convention, the ILO submitted to the Committee for the Elimination of Discrimination Against Women, for examination at its 13th Session (January-February 1994), a report on the application of the Convention in the areas falling within the scope of the ILO's activities, covering 16 countries whose reports were due. With specific reference to the articles on the elimination of discrimination against women and the promotion of equal treatment, the ILO report contains additional information to that in the reports submitted by the States parties, as well as relevant comments of the ILO Committee of Experts on the Applications of Conventions and Recommendations and general information on the activities undertaken by the ILO to promote equality for women workers.

D. United Nations Convention on the Rights of the Child

74. In accordance with Article 45 of this Convention, the ILO was represented at the Third, Fourth and Fifth Sessions of the Committee on the Rights of the Child (Geneva, January 1993, September-October 1993 and January 1994). At its Fourth (September-October 1993) Session, the Committee held a general discussion on the protection of children against economic exploitation (Article 32, paragraphs 1 and 2, of the Convention). At the request of the Committee, the Office prepared a document defining the concept of economic exploitation, to which the Convention refers. Work which

is carried out in conditions of employment inferior to those established by international labour standards (minimum age for admission to employment, forced labour, protection against employment injury, protection of wages, etc.) should be considered to constitute economic exploitation and, as such, would require the adoption and implementation of protective measures by the State party to the Convention. The Committee on the Rights of the Child, in a declaration adopted following this general discussion, called upon States parties to the Convention on the Rights of the Child to ratify international labour Conventions on minimum age and conditions of work, and placed particular emphasis on inspection procedures at the workplace. The Committee on the Rights of the Child examined the question of its relations with the specialized agencies at its Fifth (January 1994) Session. As of December 1993, 153 States were party to the Convention.

E. United Nations Convention on the Elimination of
All Forms of Racial Discrimination

75. In accordance with a decision of the Committee on the Elimination of Racial Discrimination, the ILO attended the 42nd (March 1993) and 43rd (August 1993) Sessions of that Committee. In pursuance of the arrangements for cooperation with the ILO, the most recent comments by the Committee of Experts on several countries, and particularly its comments concerning the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Indigenous and Tribal Populations Convention, 1957 (No. 107), were submitted to the Committee on the Elimination of Racial Discrimination in the context of its examination of reports due.

F. European Code of Social Security and Protocol thereto

76. In accordance with the established supervisory procedure under article 74(4) of the Code and the arrangements made between the ILO and the Council of Europe, 15 reports on the European Code of Social Security and the Protocol thereto, submitted by the States which have ratified these instruments, were sent to the Office by the Secretary-General of the Council of Europe. After examining all these reports, the Committee was able to observe that the States parties to the Code and the Protocol continue to apply them in full or nearly in full. At the sitting in which the Committee examined the reports on the European Code of Social Security and the Protocol thereto, the Council of Europe was represented by Mr. S.G. Nagel, Head of the Social Security and Employment Division. The conclusions of the Committee regarding these reports will be sent to the Council of Europe.

77. In addition, a representative of the ILO took part, as technical adviser, in the meeting of the European Social Security Committee of the Council of Europe, held in Strasbourg (France) in November 1993. At that meeting, the European Social Security Committee endorsed, as in the past, the conclusions of the Committee of Experts.

78. The Committee of Experts was informed that the European Code of Social Security came into force for Cyprus on 16 April 1993.

G. European Social Charter and Additional Protocol

79. In the context of collaboration with the Council of Europe, a representative of the Office participated, in an advisory capacity, in accordance with article 26 of the European Social Charter, at several sessions held in 1993 of the Committee of Independent Experts set up to supervise the application of the Charter. Furthermore, a representative of the Office participated in the meetings of the Committee for the European Social Charter. The work of that Committee is intended to improve the supervisory procedures and contents of the Charter.

80. The Protocol to amend the Charter, which was adopted on 21 October 1991, has been ratified by Cyprus and the Netherlands.

81. The Committee welcomes the excellent collaboration between the International Labour Organization and the Council of Europe in the activities relating to the Social Charter.

Collaboration with other international organizations

A. Cooperation in the field of standards with the United Nations and specialized agencies

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

83. Thus, in accordance with established practice, copies of the reports received from governments on the Indigenous and Tribal Populations Convention, 1957 (No. 107), were forwarded for comment to the United Nations, the United Nations Food and Agriculture Organization (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO); copies of these reports were also sent to the Inter-American Indian Institute of the Organization of American States. The WHO and the United Nations also received a copy of one report on the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Copies of reports on the Rural Workers' Organizations Convention, 1975 (No. 141), were communicated to the FAO and the United Nations. Copies of reports on the Human Resources Development Convention, 1975 (No. 142), were communicated to UNESCO. Copies of reports on the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), were forwarded to the WHO, UNESCO and the United Nations. Copies of the reports received on the Nursing Personnel Convention, 1977 (No. 149), were communicated to the WHO. Copies of reports on the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and on the Merchant

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

84. Representatives of these Organizations were also invited to attend the sittings of the Committee of Experts at which the Conventions in question were discussed.

B. Relations between the ILO and the European Union

85. In its previous report the Committee noted the advisory opinion given on 19 March 1993 by the Court of Justice of the European Communities concerning the Community's competence to "conclude" the Chemicals Convention, 1990 (No. 170). The Court found that the competence to "conclude" Convention No. 170 belongs at the same time to the Member States (of the Community) and to the Community itself. At its 256th Session (May 1993), the Governing Body conducted a preliminary examination of the scope of the advisory opinion, pending a later examination of its implications by the Community authorities themselves. The Conference Committee (June 1993) also discussed the relationship between the standard-setting activities of the ILO and the activities of the European Community (now the European Union) in the light of the Court's opinion. The Committee was informed, in this connection, that the European Commission has just submitted a proposal for a decision to the Council of the European Union with a view to determining the consequences of the opinion in terms of the exercise of the Community's external competence at International Labour Conferences, when competence belongs both to the Community as a whole and to its member States. Examination of this issue should therefore be resumed later within the ILO in the light of the proposed decision.

Matters relating to human rights

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

87. The ILO took part in the World Conference on Human Rights held in Vienna from 14 to 25 June 1993 as well as in the four sessions of its preparatory committee. The Committee notes the Declaration and Plan of Action adopted by the Conference, calling for universal ratification of international human rights treaties. It noted with interest the recognition given to the decisive role that the specialized agencies have to play in the formulation, promotion and implementation of human rights. Particular attention is given to some of the issues of special concern to the ILO such as child labour, trade union rights, the vulnerable situation of migrant workers, the rights of indigenous and tribal peoples and equality between the sexes. It will now be necessary to consider ways of implementing the Declaration, for which reports on progress will have to be prepared regularly. The Committee hopes that interaction between the United Nations human rights bodies and the specialized agencies will be strengthened as a result.

88. The Committee recalls that 1993 was proclaimed by the General Assembly of the United Nations as the International Year of the World's Indigenous People. It notes that the International Labour Office was named Co-coordinator of the International Year together with the United Nations Centre for Human Rights. Recalling the important role that the ILO has played in this area since its earliest days, the Committee notes that the ILO has increased its work on this subject during the International Year. For example, it has intensified its technical cooperation activities for the benefit of indigenous peoples in various regions of the world, and has taken steps to stimulate reflection among all parts of the United Nations system on the possibilities of coordinating their activities in this area. The ILO has co-sponsored two meetings for indigenous peoples and the United Nations specialized agencies.

Questions concerning the application of Conventions

Application of the Forced Labour Convention, 1930 (No. 29)

89. This year, the Committee examined many reports covering a broad range of concerns about the application of this Convention. The exploitation and resultant human misery still occurring in many member States in flagrant contravention of this Convention are a matter of the gravest concern. One aspect of significant disquiet to the Committee relates to forced child labour, and particularly the exploitation of children for prostitution and pornography. This form of child labour is increasingly advertised outside the country in which it occurs and is therefore the subject of deliberate and increased exploitation by tourists and visitors from other countries. No longer is such exploitation of children a responsibility only of the country in which it occurs, it is an international responsibility.

90. The Committee appeals to those member States which have not already taken action, to assist in the eradication of these deplorable practices by taking measures in their own territories, to prevent the involvement of persons within their borders, in particular by ensuring the punishment of those who advertise or promote such activities in another country or travel there for such activities. Such complementary measures would not of course absolve the member State in which such exploitation of children occurs from itself taking firm action to prevent such practices and to prosecute all persons involved.

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

91. Upon conclusion of its examination of the application of the Convention during the period 1990-92 which it had undertaken at its previous session, the Committee wishes to add some remarks to those appearing in paragraphs 52 to 57 of its 1993 report. Information drawn from reports examined this year confirms, with the exception of rare cases of quasi-full employment, that the employment situation has deteriorated in a context of weak growth or recession, resulting in increased unemployment and more precarious employment. The consequences for individuals and the risks to social cohesion arising

from the virtually universal growth of long-term unemployment are of particular concern. In addition, some countries have experienced growth in economic activity without improvement in the employment situation. This amounts to a new ground for concern, in that it could be a sign of long-term structural changes that are unfavourable for employment. There is little evidence that ways of tackling this have been determined, either regionally or in individual countries.

92. As the Committee noted last year, although most governments stated in their reports that they were carrying out policies directed towards favouring growth in production and in employment, they have most often adopted macroeconomic orientations tending, in the short term, to give priority to the control of inflation and public finance, even if at the price of a high level of unemployment. Furthermore, it is not unusual within the context of the transition towards a market economy or structural adjustment for programmes of privatization or employment reduction in the public sector to contribute directly to increased unemployment. The Committee, which will have the opportunity to return to the important question of dismissal for economic or structural reasons in the general survey that in February 1995 will be devoted to the 1982 instruments on termination of employment, notes with concern the growing divergence between the Convention, which provides for the formulation and application, "as a major goal", of an "active policy designed to promote full, productive and freely chosen employment", and national practices where renewed growth in employment is expected upon the re-establishment of macroeconomic balance or improved competitiveness to which priority has been given. Moreover, the goals of raising standards of living and promoting equity of employment policy should not be forgotten when, for example, the reduction of the minimum wage is envisaged to favour greater flexibility in the labour market.

93. In this respect, numerous reports supplying precise and detailed information on measures taken to combat unemployment through intervention in the labour market, particularly in the area of job placement and training, fail to indicate the manner in which these measures are integrated into the larger perspective of employment policy within the meaning of the Convention. The Committee is bound to recall, in its individual comments, that the objectives of the Convention should be pursued within "the framework of a coordinated economic and social policy". It is essential to ensure that the scope of the Convention is not reduced to only a labour market policy. The Committee has also had to recall in several cases the importance attached to giving full effect to the provisions of the Convention providing for consultation with representatives of employers and workers, as well as other sectors of the active population, such as persons employed in the rural and informal sectors. The pursuit of a social dialogue on employment policies that is as broad as possible is particularly important at a time of wide-ranging structural adjustment.

94. The Committee, which has also had the opportunity to emphasize the extent to which the protection of fundamental rights of workers depends on the implementation of a policy to promote the goal of full, productive and freely chosen employment, is pleased that the Governing Body, in the context of the adjustment of the regular supervisory procedures, reaffirmed the priority status of this

Convention. In addition it notes the inclusion in the agenda of the 83rd (1996) Session of the Conference of a general discussion on employment policies in a global context. The thorough examination of the difficulties encountered in practice in the effective application of this Convention which, although adopted 30 years ago, provides essential principles whose current relevance is broadly recognized, will not fail to form a solid basis for the debate.

IV. TECHNICAL ASSISTANCE IN THE FIELD OF STANDARDS

A. Direct contacts and cooperation in the field of standards

95. A direct contacts mission to examine problems raised in the previous comments of the Committee on the application of the Forced Labour Convention, 1930 (No. 29), visited Thailand in August 1993. Direct contacts missions concerning the application of the Freedom of Association and the Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), visited Costa Rica and Indonesia in October and November 1993 respectively and Pakistan in January 1994. A consultative mission concerning the application of Convention No. 98 took place in Malaysia in March and April 1993.

96. During the year, the regional advisers on standards have visited nearly 50 countries. Most of these visits were designed to assist governments in finding solutions to the various problems experienced in relation to international labour standards. The others concerned consultations on standards-related questions in the context of technical cooperation activities; the promotion of standards at the national, subregional and regional levels or among employers' and workers' organizations; and support for multidisciplinary missions on matters relating to standards. The following countries were visited: Africa: Benin, Burkina Faso, Côte d'Ivoire, Eritrea, Ethiopia, Lesotho, Mauritania, Namibia, South Africa, Tunisia, Zambia and Zimbabwe; Arab countries: Egypt, Syrian Arab Republic and Yemen; Latin America and the Caribbean: Antigua and Barbuda, Aruba, Bahamas, Bolivia, Colombia, Costa Rica, Dominican Republic, El Salvador, Ecuador, Granada, Guyana, Honduras, Suriname and Trinidad and Tobago; Asia and the Pacific: Australia, Cambodia, China, Indonesia, Korea, Malaysia, Nepal, Papua New Guinea, Philippines, Singapore, Thailand, Viet Nam; there was also a visit to Hong Kong. Missions were also undertaken in Central and Eastern European countries: Azerbaijan, Croatia, Estonia, Hungary, Kazakhstan, Kyrgyzstan, Russian Federation, Slovakia, Ukraine and Uzbekistan.

97. In 1993, several inter-regional and subregional seminars and a symposium on international labour standards were held: an ILO/ALO Inter-Regional Seminar on International and Arab Labour Standards in Arab countries (February 1993, Syrian Arab Republic); Sub-Regional Workers' Education Seminars on International Labour Standards and Freedom of Association for the French and Portuguese-speaking African countries respectively (April and November 1993, Côte d'Ivoire); a Sub-Regional Workers' Education Seminar on International Labour

Standards for the Andean countries (October 1993, Ecuador); a Sub-Regional Workers' Education Seminar on International Labour Standards and Freedom of Association for English-speaking countries of Eastern and Southern Africa (December 1993, Zimbabwe); and the Seventh Asian-Pacific Symposium on Standards-Related Topics (March-April 1993, China).

98. Programmes designed to familiarize national labour administration officials with the obligations of member States and ILO procedures relating to Conventions and Recommendations continued. A course for high-level specialists of legal departments or international affairs' departments of labour ministries of the Commonwealth of Independent States, the Baltic States and several other States were organized in collaboration with the ILO's International Training Centre (Turin). It was attended by 32 participants from the following countries: Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Russian Federation, Tajikistan, Ukraine and Uzbekistan.

99. Activities for cooperation and the promotion of standards also took the form of participation in seminars, workshops and meetings, and the provision of advisory services concerning international labour standards in or for the following countries: Argentina, Australia, Austria, Belgium, Belize, Cambodia, China, Colombia, Côte d'Ivoire, Ecuador, Egypt, El Salvador, Eritrea, France, Germany, Grenada, Hungary, Iceland, India, Indonesia, Italy, Japan, Jordan, Lao People's Democratic Republic, Malaysia, Namibia, Nepal, Paraguay, Peru, Poland, Russian Federation, San Marino, Singapore, South Africa, Spain, Saint Lucia, Switzerland, Syrian Arab Republic, Thailand, Tunisia, United Kingdom, United Republic of Tanzania, United States, Uruguay, Viet Nam and Zimbabwe.

100. During the course of the year, comments and consultations on drafts of labour laws and related legislation of the following countries have been provided: Albania, Belarus, Belize, Côte d'Ivoire, Croatia, Dominica, Egypt, El Salvador, Fiji, Ghana, Grenada, Guinea, Honduras, Islamic Republic of Iran, Italy, Kazakhstan, Lao People's Democratic Republic, Madagascar, Mauritania, Nigeria, Peru, Russian Federation, Rwanda, Uganda, Ukraine, United States and Zimbabwe.

B. Standards and technical cooperation

101. The Committee welcomes the Office's establishment of multidisciplinary teams in all regions which, along with its implementation of the active partnership policy, represents a new phase in the symbiosis of the ILO's standard-setting and technical cooperation activities. It supports the crucial contribution to be made by the teams' standards specialists. This takes the form, first, of assisting governments to fulfil standards-related obligations under the Constitution and encouraging national employers' and workers' organizations to play their roles; and, second, of trying to ensure that priorities articulated by international labour standards - especially standards which States have expressly identified as their priorities when they have ratified Conventions - are more fully reflected in national development planning and technical cooperation activities.

102. The Committee also notes with interest the continuing work done to inform and train ILO staff and constituents as to the relations between standards and technical cooperation.

103. Several meetings, training seminars and workshops on the relations between international labour standards and technical cooperation were organized at headquarters and in the field in various regions for ILO staff, constituents, donors and national counterparts.

104. Information was provided to the principal technical advisers and experts in the field of technical cooperation, and to the staff of field offices on the relationship between standards and technical cooperation. Courses on the same theme were also given regularly within the context of the training courses of the Turin Centre.

V. ROLE OF EMPLOYERS' AND WORKERS' ORGANIZATIONS

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

106. In accordance with established practice, the ILO sent to the representative organizations of employers and workers a letter concerning the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due from their respective governments and copies of the Committee's comments to which the governments were invited to reply in their reports.

Observations made by employers' and workers' organizations

107. Since its last session, the Committee has received 251 observations, 43 of which were communicated by employers' organizations and 208 by workers' organizations. This is the highest number of observations ever received. It shows again the interest of employers' and workers' organizations in the implementation of ILO

¹ Direct requests have been addressed to the following countries: Ethiopia, Jordan, Malaysia.

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standards and reflects the constant efforts made by the supervisory bodies and the Office to give interested organizations complete information on their role in this area.

108. The majority of observations received (244) relate to the application of ratified Conventions.¹ Seven observations relate

¹ Argentina: Congress of Argentinian Workers (CTA) on Conventions Nos. 1, 2, 14, 26, 34, 42, 87, 98; Union of United Maritime Workers on Conventions Nos. 1, 9, 14, 22, 26, 32, 52, 53, 81, 95, 98; Unique Workers' Central (Brazil) on Conventions Nos. 81, 95; Austria: Federal Chamber of Commerce on Convention No. 111; Federal Chamber of Workers and Salaried Employees on Conventions Nos. 88, 122; Bangladesh: Bangladesh Employers' Association (BEA) on Conventions Nos. 18, 29, 45, 81, 89, 98, 149; Brazil: National Confederation of Industry (CNI) on Conventions Nos. 98, 111, 122; Trade Union of Chemical and Petrochemical Industry Workers of Triunfo (SINDIPOLO) on Conventions Nos. 81, 148; Trade Union of Dockers and the Ore Handling Stevedores of the State of Espirito Santo on Convention No. 152; Unique Workers' Central (CUT) on Conventions Nos. 95, 97, 117; Chile: National Confederation of Trade Unions of Bakery Workers (CONAPAN) on Convention No. 20; Croatia: Union of Autonomous Trade Unions of Croatia (SSSH) on Conventions Nos. 87, 98; Denmark: Danish Employers' Confederation on Convention No. 100; Ecuador: Latin American Central of Workers (CLAT) on Convention No. 122; Finland: Employers' Confederation of Service Industries (LTK) on Convention No. 168; Commission for Local Authority Employers (KT) on Convention No. 168; Finnish Employers' Confederation (STK) on Convention No. 100; Confederation of Finnish Industry and Employers (TT); Employers' Confederation of Service Industries (LTK) [jointly] on Conventions Nos. 81, 88, 100; Finnish Shipowners' Association and Aland's Shipowners' Association on Convention No. 9; Federation of Agricultural Employers on Convention No. 129; Central Organization of Finnish Trade Unions (SAK) on Conventions Nos. 2, 9, 81, 88, 100, 129, 156, 159, 168; Confederation of Unions for Academic Professionals in Finland (AKAVA) on Conventions Nos. 88, 100, 156; Finnish Seamen's Union and Finnish Ship's Officers' Association on Conventions Nos. 9, 147; France: French Confederation of Christian Workers (CFTC) on Conventions Nos. 149, 156; French Democratic Confederation of Labour (CFDT) on Conventions Nos. 95, 147, 156; French Confederation of Executives (CFE-CGC) on Convention No. 122; General Confederation of Labour "Force Ouvrière" (FO) on Conventions Nos. 3, 17, 44, 149; National Federation of Trade Unions of Health and Social Services (CFDT) on Convention No. 149; France (Guadeloupe): General Confederation of Labour "Force Ouvrière" (CGT-FO) on Convention No. 131; France (T.A.A.F.): National Federation of Maritime Trade Unions (FNSM) on Conventions Nos. 8, 9, 15, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 111, 133, 134, 146, 147; Gabon: Trade Union Confederation of Gabon (COSYGA) on Conventions Nos. 1, 12, 29, 45, 81, 98, 154, 158; Germany: German Confederation of Trade Unions (DGB) on

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Convention No. 87; Ghana: Trades Union Congress (TUC) on Convention No. 98; Hungary: National Confederation of Hungarian Trade Unions on Convention No. 100; Iceland: Alliance of Graduate Civil Servants (BHMR) on Convention No. 98; India: Calcutta Dock Workers' Union on Convention No. 1; "Hind Mazdoor Sabha" on Convention No. 26; Italy: General Confederation of Agriculture on Convention No. 12; General Confederation of Commerce and Tourism (CONFCOMMERCIO) on Conventions Nos. 79, 98, 100; Italian Confederation of Private Shipowners (CONFITARMA) on Conventions Nos. 108, 147; Italian General Confederation of Craftworks (CONFARTIGIANATO) on Convention No. 98; General Confederation of Industry (CONFINDUSTRIA) on Convention No. 100; Italian Confederation of Autonomous Workers' Unions (CISAL) on Conventions Nos. 81, 98, 135, 151; Italian General Confederation of Labour, Italian Confederation of Workers' Unions, Italian Union of Labour on Conventions Nos. 98, 100; Italian Union of Labour (UIL) on Conventions Nos. 99, 103, 150; Italian Confederation of Workers' Unions (CISL) on Convention No. 90; Trade Union Association of Public Petrochemical Undertakings (ASAP) on Conventions Nos. 98, 100, 149; Japan: Japan Federation of Coastal Shipping Associations on Convention No. 147; Japanese Trade Union Confederation (RENGO) on Convention No. 98; All Japan Seamen's Union on Convention No. 147; Mauritania: General Confederation of Mauritanian Workers (CGTM) on Convention No. 87; Mexico: Confederation of Chambers of Industry (CONCAMIN) on Convention No. 87; Confederation of Workers of Mexico (CTM) on Convention No. 160; New Zealand: New Zealand Council of Trade Unions on Conventions Nos. 12, 17, 42; New Zealand Employers' Federation on Convention No. 81; Nicaragua: Rural Workers' Association (ATC) on Convention No. 87; Pakistan: All Pakistan Federation of Trade Unions (APFTU) on Conventions Nos. 18, 22, 29, 81, 87, 96, 98, 111; All Pakistan Federation of United Trade Unions (APFOUTU) on Conventions Nos. 29, 81; Pakistan National Federation of Trade Unions (PNFTU) on Conventions Nos. 22, 29, 81, 96, 98, 111; Peru: Association of Employees and Retired Employees of the "Electrolima" (ADEJE) on Conventions Nos. 35, 102; Central Union of Workers of the Peruvian Social Security Institute on Conventions Nos. 24, 25, 35, 36, 37, 38, 39, 40, 102; Trade Union of Workers of the "Mercado del Pueblo S.A." (SINTRAMESA) on Conventions Nos. 81, 102; Poland: Independent Self-Governing Trade Union "Solidarnosc" on Convention No. 87; Portugal: General Confederation of Portuguese Workers (CGTP-IN) on Conventions Nos. 17, 81, 129, 149; Saudi Arabia: International Confederation of Arab Trade Unions on Conventions Nos. 29, 81, 105, 111; South Africa: South African Employers' Consultative Committee on Labour Affairs (SACCOLA) on Convention No. 19; Spain: Democratic Confederation of Labour (Morocco) on Conventions Nos. 97, 117; General Union of Workers (UGT) on Conventions Nos. 81, 88, 96, 100, 103, 148, 155, 158, 162; Trade Union Federation of Workers' Commissions (CC.OO) on Conventions Nos. 16, 29, 45, 73, 77, 78, 96, 100, 103, 113, 124, 138, 152, 155, 156,

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to the reports provided by governments under article 19 of the Constitution relating to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98).¹

109. The Committee notes that, of the observations received this year, 129 were transmitted directly to the International Labour Office which in accordance with the practice established by the Committee, referred them to the governments concerned for comment. In 122 cases the governments transmitted the observations with their reports, sometimes adding their own comments. Part Two of this Report contains the Committee's comments on cases where the observations raised an issue concerning the application of ratified Conventions.

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

111. The Committee notes that in most cases the organizations of employers and workers endeavoured to gather and present precise facts on the application in practice of ratified Conventions. It notes that the matters dealt with in these observations have touched on a very

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158; Sri Lanka: Lanka Jathika Estate Workers' Union on Convention No. 98; Sweden: Swedish Seamen's Union (SSU) on Conventions Nos. 92, 133; Swedish Trade Union Confederation (LO) on Conventions Nos. 122, 156, 164; Swedish Confederation of Professional Employees (TCO) on Conventions Nos. 122, 168; Switzerland: Swiss Workers' Union (USS) on Convention No. 87; Turkey: Turkish Confederation of Employers' Associations (TISK) on Conventions Nos. 42, 45, 58, 88, 100, 127; Confederation of Turkish Labour Real Trade Unions "HAK-IS" on Convention No. 98; Confederation of Turkish Trade Unions (TURK-IS) on Conventions Nos. 58, 88, 98, 127; United Kingdom: Trades Union Congress (TUC) on Conventions Nos. 29, 87, 98, 100, 108, 147, 160; United Kingdom (Guernsey): Trades Union Congress (TUC) on Convention No. 98; United Kingdom (Hong Kong): Trades Union Congress (TUC) on Conventions No. 98, 151; Venezuela: Confederation of Autonomous Trade Unions (CODESA) on Convention No. 144; General Confederation of Workers (CGT) on Convention No. 144.]

¹ Brazil: National Confederation of Industry (CN1) on Convention No. 87; Mexico: Confederation of Chambers of Industry (CONCAMIN) on Convention No. 98; New Zealand: New Zealand Employers' Federation (NZEf) on Conventions Nos. 87, 98; New Zealand Council of Trade Unions (NZCTU) on Conventions Nos. 87, 98; Turkey: Confederation of Turkish Labour Real Trade Unions "HAK-IS" on Convention No. 87.

wide range of Conventions relating, in particular, to the following subjects: protection of the right to organize and the right to collective bargaining, discrimination, forced labour, employment policy, labour inspection, wage protection, tripartite consultations relating to international labour standards, maritime labour.

112. The Committee notes lastly that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), has now received 61 ratifications. Thus, the number of ratifications has more than doubled since the General Survey on the Convention in 1982,¹ which noted favourable prospects in this respect. The Committee hopes that many other countries will be able to ratify it, all the more since some have recently adopted provisions to establish tripartite bodies for ILO activities, with reference to the 1976 instruments.

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

Supply of reports

113. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.

114. In accordance with the procedure for reporting that has been in force since 1977, detailed reports from all ratifying States, covering the period ending 30 June 1993, were due to be examined this year in respect of 38 Conventions.² In addition, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria for more frequent reporting approved by the Governing Body and set out in paragraph 38 of the Committee's 1977 Report.

115. The Committee has noted what the consequences will be for the requesting of reports on the application of ratified Conventions or the provisions that the Governing Body has adopted regarding the adjustment of the regular supervisory procedures.³ The adjustments essentially concern the frequency of reports. As regards first reports, two detailed reports will be requested in the years following the entry into force of a Convention for the ratifying

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

² Conventions Nos. 2, 4, 6, 12, 17, 18, 29, 41, 42, 45, 50, 64, 65, 79, 81, 85, 86, 88, 89, 90, 98, 100, 104, 108, 121, 127, 129, 147, 148, 149, 151, 154, 155, 156, 158, 159, 161, 162.

³ GB.258/6/19, Report of the Committee on Legal Issues and International Labour Standards.

country. Detailed reports will be requested every two years for the ten Conventions regarded as priority ones: freedom of association (Nos. 87 and 98); forced labour (Nos. 29 and 105); equal treatment (Nos. 100 and 111); employment policy (No. 122); labour inspection (Nos. 81 and 129); tripartite consultations (No. 144). For all the other Conventions simplified reports will be requested every five years, except where the Committee of Experts has made an observation or a direct request calling for a reply or where it considers that a detailed report should be submitted on account of changes in legislation or practice. Non-periodic detailed reports will be required in certain cases, as previously, particularly following the receipt of observations made by employers' or workers' organizations, or when the Committee of Experts, on its own initiative or on the initiative of the Conference Committee, so requests. Lastly, requests for annual general reports will be discontinued. These new arrangements will be subjected to a trial period of five years. Finally, reports should be communicated by 1 June, and by 1 September at the latest. The date of the Committee of Experts' meeting has been set for the first two weeks of December. The new arrangements will take effect in 1995. The Committee hopes that these measures will considerably reduce the burden on member States and enable them better to fulfil their obligations under articles 19, 22 and 35 of the ILO Constitution.

Reports requested and received

116. A total of 1,906 detailed reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 1,233 of these reports had been received by the Office. This figure corresponds to 64.6 per cent of the reports requested, compared with 65.4 per cent last year. The Committee regrets that, as indicated in paragraphs 128 and 129 below, a number of reports received are incomplete and do not enable it to reach conclusions regarding the application of the Conventions concerned. A table showing reports received and reports overdue, classified by country and by Convention, is to be found in Part II (section I, Appendix I). Another table (section I, Appendix II) shows, for each year in which the Committee has met since 1933, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee, and by the date of the session of the International Labour Conference.

117. In addition, 387 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 243 reports, 62.7 per cent, had been received by the end of the Committee's session, in comparison with 43.6 per cent in 1993. A list of the reports received and not received, classified by territory and by Convention, is to be found appended to section II of Part Two of this Report.

118. Apart from the above-mentioned reports, 17 governments also supplied general reports on the Conventions for which detailed reports were not due for the period under review: Benin, Belgium, Brazil,

Costa Rica, Croatia, El Salvador, Ireland, Kenya, New Zealand, Panama, Poland, Rwanda, Saudi Arabia, Slovakia, Slovenia, South Africa, Switzerland.

119. In those cases in which the reports were not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination, and in which this material was not otherwise available, the Office, as requested by the Committee, wrote to the governments concerned asking them to supply the necessary texts to enable the Committee to fulfil its task.

Compliance with reporting obligations

120. Most of the governments from which reports were due on the application of ratified Conventions have supplied all or most of the reports requested, as can be seen from Appendix I, Part II, section I. However, 50 governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following countries: Algeria, Bahrain, Barbados, Burkino Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Congo, El Salvador, Equatorial Guinea, Estonia, Gabon, Ghana, Grenada, Guatemala, Guinea, Haiti, Honduras, Indonesia, Jamaica, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malawi, Mongolia, Mozambique, Netherlands (Aruba), Pakistan, Papua New Guinea, Singapore, Sri Lanka, Thailand, United Arab Emirates, Zaire. No reports have been received for the past two or more years from the following countries: Afghanistan, Albania, Bahamas, Belize, Dominica, Guinea-Bissau, Guyana, Liberia, Nepal, Saint Lucia, Sao Tome and Principe, Seychelles, Solomon Islands, Somalia.

121. The Committee urges the governments of these countries, and also of those which have sent only some of the reports due, to make every effort to supply the reports requested on ratified Conventions. Where no reports have been sent for a number of years, it is likely that particular problems of an administrative or technical nature are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it may be that in cases of this kind assistance from the Office, in particular the help of the technical advisers on standards, could enable the government to overcome its difficulties.

Late reports

122. The Committee is once again bound to emphasize the importance of communicating reports in due time. Reports are requested on ratified Conventions by 15 October each year at the latest. Due consideration is given, when fixing this date, to the time required to translate the reports, where necessary, to conduct research into legislation and other necessary documents, and to examine reports and legislation, etc. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

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123. The Committee observes that the great majority of reports are thus received between the time-limit fixed and the date on which the Committee meets: by 15 October 1993, the proportion of reports received was only 24.7 per cent. The Committee is very concerned at this percentage, which is very low, and notes that it is often the first reports and those relating to Conventions on which the Committee has made comments that are received the latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care owing to lack of time. It has thus had to examine a number of reports at its present session held over from 1993.

124. The Committee must point out yet again that it is extremely concerned at this state of affairs. It trusts that, with the introduction of the adjustments to the regular supervisory procedure adopted by the Governing Body (see paragraph 115 above), governments will in future endeavour to observe the time-limits laid down for the sending of their reports so that it can carry out its supervisory function adequately.

Supply of first reports

125. A total of 65 first reports of the 100 due on the application of ratified Conventions were received by the time that the Committee's session opened. A number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following States: Cameroon (Convention No. 106) since 1990; Yemen (Conventions Nos. 122, 156 and 158) since 1991; Côte d'Ivoire (Convention No. 133), France (Convention No. 133), France (French Guiana, Guadeloupe, Martinique, Réunion (Convention No. 133), French Southern and Antarctic Territories (Conventions Nos. 53, 69, 74, 92, 133 and 134), Liberia (Convention No. 133) and Nigeria (Convention No. 133) since 1992.

126. The Committee recalls that particular importance attaches to the first reports on the basis of which it makes its initial assessment of the observance of ratified Conventions. It therefore requests the governments concerned to make a special effort to supply these reports.

Replies to comments of the supervisory bodies

127. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the International Labour Office wrote to all the governments who failed to provide such replies, requesting them to supply the necessary information. Of the 40 governments to which such letters were sent, only five have provided the information requested.

128. The Committee notes with concern that there are still many cases of failure to reply to its comments; either:

- (a) out of all the reports requested from governments, no report or reply has been received;

(b) the reports received contained no reply to most of the Committee's comments (observations and/or direct requests) and/or did not reply to the letters sent by the Office.

129. In all there were 353 such cases,¹ as compared to 318 last year and 330 the previous year. The Committee is concerned by the number of these cases, which is still very high. It is bound to repeat the observations or direct requests already made on the Conventions in question.

¹ Afghanistan (Conventions Nos. 42, 95, 111, 137, 139, 140, 141); Algeria (Conventions Nos. 6, 29, 42, 62, 81, 88, 89, 92, 98, 100, 127); Bahamas (Conventions Nos. 17, 26, 29, 42, 81, 88, 94, 105, 117, 144); Bahrain (Conventions Nos. 29, 81); Barbados (Conventions Nos. 63, 81, 98, 100, 105, 118, 122); Belize (Conventions Nos. 26, 29, 81, 88, 98); Burkina Faso (Conventions Nos. 6, 17, 18, 29, 81, 100, 129, 159); Burundi (Conventions Nos. 29, 81); Cameroon (Conventions Nos. 3, 29, 81, 98, 100, 108, 143); Central African Republic (Conventions Nos. 13, 17, 18, 19, 26, 29, 41, 81, 88, 95, 98, 100, 105, 111, 117, 118, 119); Chad (Conventions Nos. 6, 29, 81, 98, 100, 111); Comoros (Conventions Nos. 17, 19, 29, 42, 81, 98, 100); Congo (Conventions Nos. 29, 149, 152); Equatorial Guinea (Convention No. 100); Gabon (Conventions Nos. 29, 81, 98, 100, 154, 158); Ghana (Conventions Nos. 26, 29, 30, 81, 89, 92, 100, 119, 120, 148, 149); Grenada (Conventions Nos. 26, 29, 58, 81, 99, 105); Guatemala (Conventions Nos. 13, 50, 59, 64, 81, 88, 98, 100, 117, 124, 127, 161); Guinea (Conventions Nos. 29, 81, 98, 100, 118, 121, 122, 148, 149, 151); Guinea-Bissau (Conventions Nos. 17, 18, 19, 26, 29, 45, 74, 81, 88, 91, 98, 100, 105, 108, 111); Guyana (Conventions Nos. 29, 42, 81, 87, 97, 100, 111, 115, 129, 131, 136, 137, 139, 144, 151); Haiti (Conventions Nos. 29, 42, 81, 87, 98, 100); Honduras (Conventions Nos. 81, 98, 100, 108); India (Conventions Nos. 29, 89, 90, 100); Israel (Conventions Nos. 100, 118); Jamaica (Conventions Nos. 8, 29, 81, 87, 98, 100); Lebanon (Conventions Nos. 17, 81, 89, 90, 98); Liberia (Conventions Nos. 22, 23, 29, 53, 55, 58, 87, 92, 98, 105, 108, 111, 112, 113, 114, 147); Libyan Arab Jamahiriya (Conventions Nos. 29, 81, 88, 98, 118, 121, 131); Madagascar (Conventions Nos. 29, 119, 120, 122, 127); Malawi (Conventions Nos. 81, 100, 129, 144, 149, 158, 159); Mongolia (Convention No. 98); Mozambique (Conventions Nos. 18, 81, 88, 100); Nepal (Conventions Nos. 100, 111, 131); Netherlands: Aruba (Conventions Nos. 17, 29, 81, 113, 114, 121, 129, 135, 138, 140, 142, 145, 147); Pakistan (Conventions Nos. 22, 29, 81, 96, 111); Panama (Conventions Nos. 8, 17, 55, 64, 81, 88, 114, 125); Papua New Guinea (Conventions Nos. 8, 29, 98, 122); Saint Lucia (Conventions Nos. 5, 17, 19, 87, 94, 95, 97, 98, 100, 111); Sao Tome and Principe (Conventions Nos. 17, 18, 81, 88, 100, 111); Seychelles (Conventions Nos. 5, 8, 16, 26, 58, 87, 99, 105); Singapore (Conventions Nos. 29, 81, 88, 98); Solomon Islands (Conventions Nos. 26, 29, 81, 95); Somalia (Conventions Nos. 29, 105, 111); Syrian Arab Republic (Conventions Nos. 19, 29, 96, 98, 118, 129); Thailand (Conventions Nos. 29, 88, 122, 127); Zaire (Conventions Nos. 29, 81, 88, 98, 100, 121, 158).

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130. The failure of the governments concerned to fulfil their obligations considerably hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee of Experts cannot overemphasize the special importance of ensuring the dispatch of the reports and the replies to its comments on time.

Examination of reports

131. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, the Committee has followed its usual practice of assigning to each of its members the initial responsibility for a group of Conventions. Reports received early enough are sent to the members concerned in advance of the Committee's session. The members submit their preliminary conclusions on the instruments for which they are responsible to all their colleagues for their examination. These conclusions are then presented to the Committee in plenary sitting by their respective authors for discussion and approval.

Observations and direct requests

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

133. As previously, the Committee has indicated by footnotes the cases in which, because of the nature of the problems met in the application of the Conventions concerned, it has seemed appropriate to ask the Government to supply a detailed report earlier than would otherwise have been the case. Under the system of spacing out reports over a four-year period which applies to most Conventions and is still in effect this year, such early reports have been requested after an interval of either one or two years, according to circumstances. In some instances, the Committee has also requested the Government to supply full particulars to the Conference at its next session in June 1994.

134. The observations of the Committee appear in Part Two (sections I and II) of the present report, together with a list under each Convention of any direct requests. An index of all observations and direct requests - classified by country - will be found at the beginning of this report.

Cases of progress

135. In accordance with its usual practice, the Committee has drawn up a list of the cases in which it has been able to express its satisfaction at certain measures taken by governments to make the necessary changes in their country's law or practice following comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. Details concerning the cases in question are to be found in Part II of this report and cover 42 instances in which measures of this kind have been taken in 30 States and one non-metropolitan territory. The full list is as follows:

<u>Cases of progress</u>	<u>Conventions Nos.</u>
Australia	100
Austria	100
Bahrain	29
Cameroon	3
Canada	1
Costa Rica	87, 98, 135
Cuba	29
Cyprus	119
Dominican Republic	98, 100
Equatorial Guinea	1, 103
Ethiopia	98
Greece	103
Guatemala	98
Honduras	111
Malaysia	17
Mauritania	87
Netherlands	87, 103
Nicaragua	29
Norway	91
Panama	98
Paraguay	1, 30, 87, 98, 100
Portugal	98, 127, 155
Russian Federation	29
Switzerland	120
Tunisia	113
Turkey	127
Uganda	98
Ukraine	29
United Kingdom	148
Zambia	29

Non-metropolitan territories

<u>France</u>	
St. Pierre and Miquelon	19

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136. Thus, the total number of cases in which the Committee has been led to express its satisfaction with the progress achieved following its comments has risen to 2,034 since the Committee began listing them in its reports in 1964. In addition, there have been many cases in which the Committee has been able to note with interest various measures that have been taken following its comments with a view to ensuring a fuller application of ratified Conventions. All these cases provide an indication of the efforts made by governments to ensure that their national law and practice are in conformity with the provisions of the ILO Conventions they have ratified.

137. These cases do not, however, as the Committee regularly points out, exhaust the instances in which Conventions and Recommendations have a measurable influence on the law and practice of member States. For example, the Committee has again noted a number of cases this year in which it is clear from the first report on the application of a Convention that new legislative or other measures were adopted shortly before or after ratification.

Practical application

138. As in previous years, the Committee has been concerned with assessing, on the basis of the information available, the extent to which national legislation giving effect to ratified Conventions is applied in practice. A number of questions designed to elicit information on this point are included in the report forms approved by the Governing Body for the Conventions, and the replies of governments to these questions constitute an appreciable, though uneven, source of information on practical application available to the Committee. The Committee has also taken into account other authoritative sources of information. These consist of the annual reports of labour inspection services, statistical yearbooks published in the States or by the ILO, observations of employers' or workers' organizations, compilations of judicial or administrative decisions, reports on direct contacts, reports on technical cooperation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

139. The Committee notes with interest that this year some 67 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. This percentage is higher than that of 1993 and that of 1992. The Committee none the less reiterates its appeal to governments to make every effort to include the information requested in their reports.

140. The following countries have provided information on practical application in more than half the reports concerned: Australia, Austria, Bangladesh, Barbados, Belgium, Brazil, Cameroon, Canada, Cap Verde, Chile, Colombia, Cuba, Cyprus, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Luxembourg, Madagascar, Malaysia, Malawi, Malta, Netherlands, Niger, Norway, Panama, Portugal, Romania, Rwanda, San Marino, Saudi Arabia, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, United Kingdom, United Republic of Tanzania, Tunisia, Uruguay, Venezuela, Yemen and Zambia.

141. The Committee wishes particularly to thank governments that have given information on practical application in their reports, as this information has greatly helped it in assessing more accurately the extent to which ratified Conventions are actually applied in these countries.

142. As in previous years, the Committee has addressed direct requests to certain countries which have not replied to the questions in the report forms on practical application. The Committee notes that, again this year, the majority of the countries in question are developing countries and that certain of them have referred specifically to difficulties of a financial and/or administrative nature which are preventing them from compiling the statistical and other information requested. The Committee is of the opinion that these are also cases in which technical assistance from the International Labour Office could assist in overcoming the difficulties in question.

143. The Committee also notes with interest the judicial and administrative decisions on questions of principle relating to the application of ratified Conventions to which certain countries have referred in their reports. It noted that 52 reports contain information of this kind and thereby throw additional light on the problems raised in these cases by the practical application of the Conventions in question.

144. For many years, the Committee has been noting that provisions concerning sanctions to secure observance of measures taken under the provisions of the Conventions to ensure their application are often inadequate because the sanctions laid down do not have a sufficiently dissuasive effect, particularly where violations of basic human rights are concerned. It once again draws attention to the importance of establishing effective sanctions and of adapting monetary penalties, particularly in countries with high rates of inflation, in such a way that they exert an effective preventive influence against acts contrary to the guarantees laid down by international labour Conventions. The Committee again requests governments to indicate in their reports the measures taken to examine the need to adapt monetary penalties from time to time in the light of inflation or to determine the amount of such penalties in such a way as to take account of currency fluctuations.

VII. SUBMISSION OF CONVENTIONS AND RECOMMENDATIONS TO THE COMPETENT AUTHORITIES

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

145. In accordance with its terms of reference, the Committee this year examined the following information¹ supplied by the

¹ ILC: Summary of information on the submission to the competent authorities of Conventions and Recommendations adopted by the International Labour Conference, Report III (Part 3), International Labour Conference, 81st Session, Geneva (1994).

governments of member States, pursuant to article 19 of the Constitution of the International Labour Organization:

- (a) information on the steps taken to submit to the competent authorities within the time-limit of 12 or 18 months, as provided for in the Constitution, the following instruments adopted at the 79th Session of the Conference (1992): the Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173) and Recommendation (No. 180), 1992;
- (b) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference from its 31st (1948) to its 78th (1990) Sessions (Conventions Nos. 87 to 172 and Recommendations Nos. 83 to 179);
- (c) replies to the observations and direct requests made by the Committee in 1993.

79th Session

146. The Committee notes with interest that the governments of the following member States have indicated that they have submitted to the authorities considered by them to be competent the instruments adopted by the Conference at its 79th Session: Argentina, Australia, Barbados, Belarus, Bolivia, Burundi, Cape Verde, Côte d'Ivoire, Denmark, Dominican Republic, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Gabon, Ghana, Grenada, Iceland, Indonesia, Islamic Republic of Iran, Iraq, Japan, Korea (Republic of), Kuwait, Lao People's Democratic Republic, Luxembourg, Malta, Mexico, Morocco, Myanmar, Namibia, New Zealand, Nicaragua, Norway, Panama, Poland, Portugal, Russian Federation, Rwanda, San Marino, Saudi Arabia, Singapore, Slovakia, Slovenia, Sweden, Togo, Tunisia, Turkey, Ukraine, United Kingdom, United States, Uruguay, Viet Nam and Zimbabwe.

31st to 78th Sessions

147. The Committee notes with interest that considerable efforts have been made by several governments to submit instruments adopted by the Conference since its 31st Session to the competent authorities, particularly in the following cases: Botswana (76th to 78th Sessions), Greece (76th, 77th and 78th Sessions), Grenada (78th and 79th Sessions), India (74th, 76th and 77th Sessions), Mauritius (64th, 68th and 77th Sessions), Niger (75th, 76th and 78th Sessions), Syrian Arab Republic (65th, 69th (Convention No. 159), 71st, 72nd, 74th, 75th and 76th Sessions) and Uruguay (76th, 77th (Convention No. 171 and Recommendation No. 178), 78th and 79th Sessions).

148. The table in Appendix I to section III of Part Two of the Report of the Committee shows the position of each member State as it emerges from the information supplied by the governments, with regard to the discharge of the obligation to submit Conventions and Recommendations adopted by the Conference to the competent authorities. Appendix II shows the overall position in this respect for the instruments adopted from the 31st to the 79th Sessions of the Conference.

General aspects

149. The Committee notes with concern that many countries are late - sometimes very late - in submitting to the competent authorities the instruments adopted by the Conference. In other cases, submission does not appear to have been accompanied by proposals on the action to be taken concerning the instruments being considered.

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

Comments of the Committee and replies from governments

151. In section III of Part Two of this report, the Committee makes individual observations on the points that it considers should be brought to the special attention of governments. In six of these observations, the Committee has expressed its satisfaction at the measures taken (in Fiji, Gabon, Islamic Republic of Iran, Mali, Panama and Uganda) for the submission of instruments to the competent authorities. In addition, requests with a view to obtaining supplementary information on other points have also been addressed directly to a number of countries, which are listed at the end of section III.

152. The Committee once again regrets to note that a number of governments have again failed to provide replies to its comments, even after reminders have been sent by the Office in accordance with the request made to it by the Committee (See Part II, section IV of this report). The Committee again expresses the hope that governments will endeavour in future to supply all the required information and documents.

153. The Committee wishes once more to point out the importance of the communication by governments of the information and documents called for in points I and II of the questionnaire in the Memorandum adopted by the Governing Body. Some governments do not communicate the information and documents in question. The Committee trusts that the governments concerned will take suitable measures to comply with the Memorandum on submission to the competent authorities.

Special problems

154. The Committee is bound to note with regret that no information has been supplied by the following 23 governments showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions (from the 71st to the 78th Sessions)¹ have in fact been submitted to the competent authorities: Algeria, Antigua and Barbuda, Bangladesh, Belize, Cambodia, Central African Republic, Congo, Costa Rica, Djibouti, El Salvador, Guyana, Jamaica, Kenya, Madagascar, Papua New Guinea, Paraguay, St. Lucia, Seychelles, Sierra Leone, Solomon Islands, United Republic of Tanzania, Trinidad and Tobago and Zaire. The fact that so many countries have accumulated a long backlog in this context is a cause of deep concern to the Committee. Indeed, there is a danger that certain countries may find it difficult, if not impossible, to bring themselves up to date. What is more, neither the legislative authorities nor public opinion in these countries are regularly informed of the existence of new instruments as the Conference adopts them, which defeats the real purpose of the obligation to submit explained in paragraph 150 above. In this context, the Committee would like to point out once again that the obligation of submission does not imply that governments must ratify the Conventions or accept the Recommendations in question. The Committee therefore expresses the firm hope that the governments concerned will promptly undertake to submit the instruments adopted at the sessions indicated and that it will be able to note the progress made in this respect in its next report. The Committee finally recalls that governments have the possibility of asking the International Labour Office for the technical assistance which it is able to provide to endeavour to solve this type of problem.

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

155. During the past year, a Member State of the European Union (Greece) stated that it had submitted the Chemicals Convention (No. 170) and Recommendation (No. 177), 1990, to the appropriate authorities of the European Community, in accordance with the procedure of which the Committee became aware a few years ago in connection with Conventions Nos. 153 and 162 and the corresponding Recommendations. In its report, the above Government stated that the consultations provided for in article 23, paragraph 2, of the ILO Constitution and by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), will be pursued at the national level.

¹ The Conference did not adopt either a Convention or a Recommendation at its 73rd (June 1987) Session.

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

156. In accordance with the decisions taken by the Governing Body, governments were requested to supply reports under article 19, paragraphs 5 and 7, of the ILO Constitution on the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

157. A total of 106 reports were requested only from the States that have not yet ratified the Conventions concerned and 54 received.¹ This represents 50.9 per cent of the reports requested.

158. The Committee notes with regret that, for the past five years, none of the reports on unratified Conventions and Recommendations requested under article 19 of the ILO Constitution has been received from: Libyan Arab Jamahiriya, Namibia, Papua New Guinea, Seychelles, Sierra Leone, Solomon Islands, Somalia and Zaire.

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

General Survey

160. Part Three of this report (issued separately as Report III (Part 4B)) contains the General Survey of the Committee on questions covered by Conventions Nos. 87 and 98. The survey, in accordance with the practice followed in previous years, has been prepared on the basis of a preliminary examination by a working party comprising five persons appointed by the Committee from among its members.

* * *

161. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the ILO, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly complex task in a limited period of time.

Geneva, 25 February 1994.

(Signed)

J.M. Ruda,
Chairman.

E. Razafindralambo,
Reporter.

¹ ILC, 81st Session, 1994: Summary of reports (articles 19, 22 and 35 of the Constitution), Report III (Parts 1, 2 and 3).

PART TWO

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

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

A. GENERAL OBSERVATIONS

Afghanistan

The Committee notes that the reports due have not been received. The Committee hopes that appropriate measures will be taken to ensure the application of ratified Conventions as soon as circumstances permit.

Albania

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Bahamas

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

Belize

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

Cameroon

The Committee notes that most of the reports due, including a first report due since 1991 on Convention No. 106, have not been received. It trusts that the Government will in future discharge its obligation to supply the report due on the application of these Conventions.

Central African Republic

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

Côte d'Ivoire

The Committee notes that the first report, due since 1992, on Convention No. 133 has not been received. It trusts that the Government will in future discharge its obligation to supply the report on the application of this Convention.

El Salvador

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

France

The Committee notes that the first report due since 1992 on Convention No. 133 has not been received. It trusts that the Government will in future discharge its obligation to supply the report on the application of this Convention.

Ghana

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

Guinea-Bissau

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. It trusts that the

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Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions.

Guyana

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

Haiti

The Committee recalls that the comments made on the application of Conventions ratified by Haiti apply to the legitimate Government within the meaning of resolution 46/7 adopted by the United Nations General Assembly on 11 October 1991.

Liberia

The Committee notes that the reports due have not been received. It hopes that the development of the national situation will permit the Government to discharge in future its obligation to supply reports on the application of ratified Conventions. In expectation of this, the Committee comments on the application of certain ratified Conventions.

Nepal

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

Nigeria

The Committee notes that the first report due since 1992 on Convention No. 133 has not been received. It trusts that in future the Government will discharge its obligation to supply the report due on the application of this Convention.

Saint Lucia

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

Sao Tome and Principe

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

Seychelles

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

Solomon Islands

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

Somalia

The Committee notes that the reports due have not been received. The Committee hopes that appropriate measures will be taken to ensure the application of ratified Conventions as soon as circumstances permit.

South Africa

1. The Committee refers to the general observations it has been making since 1982 concerning reports received on the Conventions by which South Africa has remained bound since it withdrew from the ILO in 1964.

2. With reference to its previous comments concerning the application of the Conventions in the "homelands", the Committee notes that some information has been provided in this year's reports. It expresses the hope that, following the adoption of the new Constitution, the Government will take all the necessary measures in order to provide full information on the manner in which the ratified Conventions are applied throughout the entire territory of South Africa, including the "homelands".

3. The Committee notes that an interim Constitution and a Bill of Rights have been adopted and the elections will be held on this basis from 27 to 29 April 1994. The Committee had repeatedly stated its view that international labour standards can only be implemented in practice in a context of respect for fundamental rights and it trusts that the above-mentioned developments will provide the basis for overcoming the legacies of apartheid.

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

4. Regarding developments following the 1992 report of the Fact-Finding and Conciliation Commission on Freedom of Association (FFCC), the Committee notes with interest that, in accordance with the 1992 Resolution of the United Nations Economic and Social Council (ECOSOC) which requested the Secretary-General of the United Nations to invite the Government of South Africa to report on the measures taken to give effect to the FFCC's recommendations, the Government reported on its actions to implement them in November 1993. The Governing Body will examine the information supplied at its forthcoming 259th Session (March 1994). Its findings will be transmitted to ECOSOC in accordance with the procedure for examining allegations concerning trade union rights against non-member States. The Committee trusts that the spirit of cooperation shown by the Government in this procedure will continue.

Thailand

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

Yemen

The Committee notes with regret that the first reports due since 1991 on Conventions Nos. 122, 156 and 158 have not been received. It trusts that the Government in future will discharge its obligation to supply reports due on the application of these Conventions.

Yugoslavia

In the light of decisions adopted by competent bodies of the United Nations considering that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot automatically ensure the continuity of membership of the former Federal Socialist Republic of Yugoslavia, as well as the inferences drawn from this by the ILO Governing Body, the Committee considers it preferable, in order not to prejudge this question, not to proceed to examine the application of the ratified Conventions.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Bahrain, Barbados, Belarus, Bolivia, Bulgaria, Burkina Faso, Burundi, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Dominica, Equatorial Guinea, Estonia, Ethiopia, Gabon, Grenada, Guatemala, Guyana, Guinea, Haiti, Honduras, Indonesia, Jordan, Lesotho, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malawi, Malaysia, Mauritania, Mongolia, Morocco, Mozambique, Nicaragua, Nigeria, Pakistan, Papua New Guinea,

Rwanda, Sierra Leone, Singapore, Slovakia, Sri Lanka, Swaziland, Ukraine, United Arab Emirates, Zaire.

B. INDIVIDUAL OBSERVATIONS

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

Canada (ratification: 1935)

The Committee notes the detailed report on the application of the Convention at both federal and provincial level supplied by the Government for the period 1989-92. In the information provided in answer to the Committee's previous observation the Government expresses the opinion that Canada continues to observe the intent of the Convention, although technically there may be divergencies between some of the provisions of the Convention and the Canadian situation. It adds that these divergencies have not given rise to problems or to expression of concern by the workers involved.

As it pointed out in its previous comments, the Committee is aware of the nature of the difficulties encountered by the Government in harmonizing Canadian legislation and practice with the provisions of the Convention, particularly with regard to the maximum length of the working day prescribed by Article 2 of the Convention, and the determination of the circumstances and limits within which exceptions to normal working hours may be allowed, in accordance with Article 6. However, it hopes that the Government will undertake the necessary action in the near future, with the agreement and collaboration of its constituent entities and the occupational organizations, to ensure conformity with the Convention.

Lastly, further to its previous comments on the application of Article 8 of the Convention in Quebec and the requirement that employers must post working schedules, the Committee notes with satisfaction that the Labour Standards Act has been amended to include this requirement.

The Committee is addressing a further direct request to the Government concerning matters still pending.

Chile (ratification: 1925)

The Committee notes the Government's report and the information supplied in answer to its previous comments, as well as the observations submitted by a trade union organization ("Sindicato de Trabajadores Num. 7, Division el Teniente, Codelco Chile") alleging non-observance of the Convention. It notes, however, that the Government does not add any new information relevant to the comments made by the Committee in its previous observations on the application of Articles 2(b) and 6 of the Convention, except for the indication

that hours worked in excess of normal working hours are voluntary, exceptional and limited.

The Committee therefore once again asks the Government to take the necessary measures to ensure that: (i) the limit of nine hours of work per day prescribed by Article 2(b) of the Convention may not be exceeded; (ii) exceptions to normal working hours are only allowed in the cases provided for in the Convention and that the maximum number of additional hours that may be authorized is fixed in advance, in accordance with Article 6 of the Convention.

Furthermore, the Committee notes the information on the practical application of the Convention and would be grateful if the Government would continue to provide available information in answer to the request contained in Part VI of the report form.

Equatorial Guinea (ratification: 1985)

Further to its previous comments concerning Article 6 of the Convention, the Committee notes with satisfaction the provisions of Act No. 2/1990, issuing the general labour regulations, which set out the permanent and temporary exceptions to normal working time that are authorized (section 49). It also notes the provisions of the same Act concerning the exceptions to be allowed in case of accident, actual or threatened, or in case of urgent work, or in case of force majeure, in accordance with Article 3.

The Committee would be grateful if the Government would provide the text of the regulations implementing section 49 of the Act No. 2/1990, which are to be made after consultation with employers' and workers' organizations. It notes in this connection the Government's statement that Act No. 12/1992 of 1 October 1992, respecting trade unions and collective labour relations, opens up prospects for the formation of workers' and employers' organizations which will have a role to play in making regulations and fixing working conditions.

More generally, the Committee asks the Government to provide information on the way in which the Convention is applied, including, for example, extracts of labour inspection reports or statistics, as requested in the report form (Part VI).

Kuwait (ratification: 1961)

The Committee notes the Government's report and the information supplied in answer to its previous comments.

1. Private sector

The Committee notes the Government's statement that the Labour Bill, which has been submitted to the Council of Ministers, provides for extension of the new Code to temporary workers and workers in small enterprises. The Committee trusts that the Bill, to which the Government has been referring for many years, will be adopted shortly and that it will give full effect to Articles 1 and 2 of the Convention.

Article 6, paragraphs 1(b) and 2. The Committee notes that the Government maintains its previous position according to which the fixing of a limit of two hours' overtime per day to meet exceptional increases in workload is sufficient to give effect to these provisions of the Convention. The current legislation (Act No. 38 of 1964) also limits overtime to two hours a day in the event of serious accidents which are imminent or which have taken place, to repair the damage caused by such accidents, or to avoid certain loss. While the Convention does not provide for limits in such cases, which are contemplated in Article 3, it does provide under Article 6, paragraph 1(b), for recourse to overtime so that establishments may deal with exceptional cases of pressure of work, and paragraph 2 of that Article requires that a maximum number of additional hours be fixed. The limit of two hours per day fixed by the Government might permit unduly high weekly or annual working hours which, in the Committee's opinion, might will lead to violation of the spirit of this Convention (see in this connection the Committee's 1967 General Survey on this instrument, ILC, 51st Session, 1967, Report III (Part IV), third part, paragraph 239). The Committee therefore again expresses the hope that the Government will take the necessary measures to fix, in the case in question, a reasonable monthly or annual limit in conformity with the Convention's objectives.

2. Public sector

Article 6, paragraph 1(b). With reference to its previous comments, the Committee notes that the legislation currently in force (Ministerial Order No. 34 of 1977 concerning overtime in the public sector), still does not determine with sufficient precision the conditions and limits within which exceptions to normal working hours may be authorized. The Committee recalls that these exceptions must remain within limits which are in conformity with the Convention's objectives. It therefore again asks the Government to take the necessary steps to determine the conditions in which recourse to overtime is permitted, and to fix a reasonable annual or monthly limit on the number of additional hours which may be authorized.

Paraguay (ratification: 1964)

Further to its previous comments, the Committee notes with satisfaction that the new Labour Code (Act No. 213 of 29 October 1993) repeals section 205 of the former Labour Code which permitted the extension of the normal working day to 12 hours a day in the case of technical or specialized work.

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

Syrian Arab Republic (ratification: 1960)

The Committee notes the information supplied by the Government in its report to the effect that the draft Legislative Decree to amend

certain provisions of Labour Code, No. 91 of 1959, including section 117 which the Committee has been commenting on for many years in terms of its conformity with Article 6 of the Convention, has been revised and again submitted to the President of the Council of Ministers. The provision currently in force provides that working hours and pauses must be organized in such a way that the workers presence at the place of work does not exceed 11 hours per day. The Committee has observed that such a situation could lead to abuse and has asked the Government several times to amend this section so that, except where work is "of a specially intermittent nature," the presence of the worker is not required at the workplace outside the authorized hours of work. In this connection, it recalls that Article 2 stipulates that working hours shall not exceed eight in the day and 48 in the week.

The Committee trusts that the above-mentioned draft Legislative Decree will be adopted in the very near future and that it will bring the legislation fully into conformity with the above-mentioned provisions of the Convention, in the light of the Committee's repeated comments.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Belgium, Canada, Costa Rica, Djibouti, India, Lebanon, Libyan Arab Jamahiriya, Paraguay, Saudi Arabia, United Arab Emirates.

Convention No. 2: Unemployment, 1919

Requests regarding certain points are being addressed directly to the following States: Argentina, Sudan.

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

Convention No. 3: Maternity Protection, 1919

Cameroon (ratification: 1970)

The Committee notes the information supplied by the Government in its report and the adoption of Act No. 92/007, of 14 August 1992, to issue the Labour Code. It notes with satisfaction that the new Labour Code explicitly provides in section 84(4) for the extension of prenatal leave in the event that confinement takes place after the presumed date without a reduction in postnatal leave, which gives better effect to the Convention (Article 3, paragraph (c)).

* * *

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

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

Morocco (ratification: 1956)

In its general observation of 1991, the Committee requested the Government to supply detailed information in reply to the comments made the Democratic Confederation of Labour and the General Union of Moroccan Workers concerning the application by Morocco of several Conventions, including Convention No. 4. According to these comments, although national law prohibits the night work of women (the Dahir of 2 July 1947, section 12), the Dahir of 27 April 1953 authorizes the Head of the Government to establish a list of establishments which are excluded on either a permanent or a temporary basis from the prohibition of night work, thereby permitting the extension of the night work of women despite its prohibition in theory (according to the Dahir) and its categoric prohibition (in accordance with the Convention).

In reply to these comments, the Government states that section 12 of the Dahir of 2 July 1947, issuing regulations respecting labour law, prohibits work by women during the night. The term "night", in accordance with sections 13 and 14 of the above Dahir, means work performed between 10 p.m. and 5 a.m. and women must benefit from a rest period of at least 11 consecutive hours. Furthermore, section 14 of the Dahir of 24 April 1973 to determine the conditions of employment and remuneration of agricultural employees provides that "women may not be employed in any work at night", subject to the exemptions which may be made by the official responsible for labour inspection in agriculture. Moreover, section 15 of the Dahir of 2 July 1947, as amended by the Dahir of 27 April 1953, provides for the possibility of permanent or temporary exceptions from the prohibition on the night work of women by means of a Decree issued by the competent authority. The permanent exemptions contained in the Order of 8 March 1948 concern a number of commercial enterprises which would not appear to be covered by the Convention.

The Committee notes this information and recalls that the exemption contained in Article 3 of the Convention concerns industrial undertakings, but not establishments in which only members of the same family are employed. The Committee requests the Government to supply information on the measures which have been taken or are envisaged to ensure that the exemptions provided for in section 15 of the Dahir of 2 July 1947, as amended by the Dahir of 27 April 1953, are only granted in the cases set out in the Convention.

Nicaragua (ratification: 1934)

In the comments which it has been making for many years, the Committee has noted that the national legislation contains no provision to prohibit the night work of women, in accordance with Article 3 of the Convention.

The Committee notes that the Government recognizes that it would be appropriate to consult the new organizations on this matter. It hopes that the Government will soon be in a position to supply

information on any progress achieved in law and in practice in order to bring the legislation into conformity with the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

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

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

Bolivia (ratification: 1954)

The Committee notes the information from the Government, in its declaration to the International Labour Conference and in its written report, concerning the ongoing tripartite consultations on the draft General Labour Act. It hopes that these consultations will soon lead to the desired results, so that the draft legislation can be enacted, to eliminate the existing discrepancies between the present Labour Act and the Convention, on which the Committee had commented as follows:

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

The Committee notes that under section 240(b) of the preliminary draft General Labour Act, prepared with ILO assistance, the minimum age for admission to apprenticeship is set at 14 years. The Committee asks the Government to supply information on all progress made in this matter.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Lesotho (ratification: 1966)

Article 2 of the Convention. The Committee notes from the Government's report that the Inspectorate Division of the Labour Department is reluctant to implement the existing provisions of the law relating to minimum age. According to the report, barring persons under the minimum age from employment would deprive them, and often their families, of a livelihood. The Committee requests the Government to indicate what measures are envisaged or taken to create the necessary conditions to allow young persons to refrain from working in

industrial undertakings under the minimum age set by the Convention and the national legislation.

Article 4. The Committee notes from the report that in practice section 72 of the 1967 Employment Act (now superseded by section 128 of the Labour Code Order No. 24 of 1992) which obliges an employer to keep registers of all persons under the age of 16 years employed by him, is rarely, if ever, complied with, for the same reasons as stated above. The Committee wishes to point out that keeping registers of persons under 16 years of age does not prevent an employer from employing persons below this age, as long as the minimum age is respected. The Committee urges the Government to bring the national practice in line with this provision of the Convention and with the existing national legislation.

[The Government is requested to report in detail for the period ending 30 June 1994.]

Seychelles (ratification: 1978)

The Committee notes that as the Government's report gives no further particulars in reply to the earlier direct requests, the Committee must return to the question in a new direct request. It hopes that the Government will without fail take the necessary steps and supply the information requested.

* * *

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

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

Austria (ratification: 1924)

The Committee notes the information supplied by the Government in its report. It also notes the comments made by the Federal Chamber of Labour which considers that increasing the staff of the labour inspectorate is undoubtedly a necessary condition for the effective implementation of the Convention. However, the small amounts imposed as penalties and the shortcomings of the administrative proceedings still limit the effectiveness of protective provisions.

The Committee notes that according to the Government's report, the new Labour Inspection Act, BGBl No. 27, which came into force on 1 April 1993, now clearly lays down that the labour inspectorate, on finding a violation, must notify the administrative authorities, except in cases in which the fault is insignificant. The Committee also notes from the statistics provided that there has been a decrease since 1989 in the number of complaints and that the Government's statement envisages further improvements in this area.

The Committee asks the Government to continue to provide information on further progress accomplished in this area, including the level of prescribed sanctions.

Burkina Faso (ratification: 1960)

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

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

Chile (ratification: 1925)

The Committee notes the Government's report.

In its previous comments, the Committee noted that section 19 of Act No. 18620, of 27 May 1987, issuing the Labour Code, which prohibits young persons of under 18 years of age from being employed in any night work in industrial establishments between 10 p.m. and 7 a.m., in other words for a period of nine hours, was not consistent with the provisions of the Convention. Under Article 3 of the Convention, the term "night" signifies a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m.

The Committee notes the Government's statement that it has taken note of the Committee's suggestion with a view to the adoption of the corresponding amendment in the future. The Committee also notes that the amendment adopted under Act No. 19250 (Diario Oficial, 30 September 1993) of section 19 of the Labour Code did not modify the current provision, since it merely extended the prohibition on night work for persons of under 18 years of age to commercial establishments.

The Committee also notes that the final subsection of section 13 of the Labour Code, to which the Government refers in its report, provides that "in no case may persons under 18 years of age work more than eight hours a day". The Committee notes that these provisions do not refer to the night work of the young persons covered by the Convention.

The Committee trusts that the appropriate reform of the legislation will be undertaken in the near future with a view to bringing it into conformity with the Convention on this point.

Portugal (ratification: 1932)

In its previous comments, the Committee pointed out that section 33 of Legislative Decree No. 409 of 1971, which authorizes exceptions from the prohibition of night work in industry for persons aged between 16 and 18 years for the purposes of vocational training, is not in conformity with Article 2 of the Convention. It also pointed out that section 29 of the same Legislative Decree, under which collective agreements may fix the beginning of the night period later than 10 p.m., conflicts with Article 3 of the Convention. It noted the assurances given by the Government that collective agreements could not make use of this possibility.

The Committee notes Legislative Decree No. 396/91, of 16 October 1991, respecting work by young persons, and Ministerial Orders Nos. 714/93 and 715/93, of 3 August 1993, relating respectively to the definition of light work and activities which are prohibited for young persons. It observes that these texts do not bring the legislation into conformity with the Convention on the two points referred to above.

The Committee requests the Government to report the measures which have been taken or are envisaged to bring the legislation into conformity with the Convention on these points.

Senegal (ratification: 1960)

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

In its previous observations, the Committee noted that sections 3 and 7 of Order No. 3724 of 22 June 1954 are not in accordance with Article 2 of the Convention (section 3 confines the prohibition of night work to young workers and apprentices, whereas the Convention applies to all young manual and non-manual workers employed in industrial undertakings; section 7 permits exceptions to the prohibition on the night work of young persons that are broader than those authorized by the Convention).

The Committee notes from the report that no progress has yet been made with regard to the appropriate amendments to the legislation, which were announced long ago and have still not been adopted. It notes the Government's statement that the current revision of the Labour Code will result in the amendment of the texts adopted to implement it, including those of 1952. The Committee hopes that it will be possible to take the necessary measures rapidly to bring the legislation into conformity with the Convention and requests the Government to indicate any progress achieved in this respect.

* * *

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

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

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

The Committee notes from the Government's reply to its previous observations that the Jamaican Bill on Merchant Shipping has not yet been submitted to Parliament. This Bill was, among others, to eliminate the restrictions in section 157 of the United Kingdom Merchant Shipping Act, 1894 (applicable to Jamaica) which, unlike the Convention, provides that "in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages".

The Committee is bound once again to reiterate its hope that the above-mentioned Bill will become law in the very near future so as to give full effect to the Convention on this point, which has been the subject of the Committee's concern for many years. It requests the Government to report any progress made in this regard and to supply the text of the new Act as soon as it is adopted.

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

Panama (ratification: 1970)

For a number of years the Committee has been pointing out the need for the Government to adopt measures to guarantee, in accordance with Article 2 of the Convention, minimum compensation equal to two months' wages in the event of loss of any vessel through shipwreck (except for warships). In this connection, the Committee notes with interest the Government's indication in its report on Convention No. 73 that the Legislative Assembly in plenary has adopted the Bill regulating work at sea and on waterways. According to the Government's indication in its report on Convention No. 8, the above Bill will incorporate the points made by the Committee. It asks the Government to provide a copy of the above text.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Seychelles (ratification: 1978)

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

The Committee noted from the Government's reply to its earlier comments that the competent authority will amend the draft Seychelles Merchant Shipping Act, 1983 in conformity with the Convention. The Committee therefore hopes that the draft

will soon be adopted so as to give full effect to the Convention by eliminating the limitation contained in section 157 of the United Kingdom Merchant Shipping Act of 1894, which is still in force in the Seychelles. Such a limitation is contrary to the Convention since it subjects the right to indemnity for unemployment in case of loss or foundering of the ship to the condition that the seafarer has exerted himself to the utmost to save the ship, cargo and stores.

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

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

* * *

In addition, a request regarding certain points is being addressed directly to Papua New Guinea.

Convention No. 9: Placing of Seamen, 1920

Egypt (ratification: 1982)

The Committee notes the information supplied by the Government in answer to its previous comments, and particularly the statistics on the placement of seafarers in Alexandria, Port Said and Suez.

Article 5 of the Convention. With reference to its previous comments, the Committee welcomes the Decision No. 28 of 1993 of the first under-secretary of State of the Ministry of Shipping concerning the creation of a tripartite committee to be responsible for examining the application of the Convention. The Government indicates that the above committee began work in April 1993 and that it deals, amongst other things, with all matters relating to the establishment of committees concerned with placement agencies. The Committee would be grateful if the Government would supply relevant available information on the progress of the work of the above committee in its report. It expresses the hope that the new committee will expedite the taking of appropriate measures in the very near future to give effect to this Article of the Convention by constituting committees consisting of an equal number of representatives of shipowners and seafarers to advise on all matters concerning the carrying on of placement offices for seafarers. It particularly asks the Government to inform the Office without delay of any progress made in this respect.

* * *

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

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

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

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

Malaysia (ratification: 1961)

Peninsular Malaysia

In reply to the Committee's previous comments, the Government indicates that the Social Security Organization (SOCSO) has now registered 1,625 employers from the agricultural sector employing one to four workers and that efforts are being made through government agencies and farmers' associations and cooperatives to contact other employers in the agricultural sector, especially in paddy cultivation, to ask them to register and to insure their employees. Additional officers were recruited by SOCSO to undertake this function. The Government also states that, since the agricultural sector operates on a profit-sharing basis or crop-sharing basis, in many situations there are apparently no contracts of service. Hence, it is estimated that a major proportion of workers in the agricultural sector who are employed for wages under a contract of service, have now been covered. The Committee notes this information. It would be glad if the Government would continue to supply information on the measures taken to ensure that all agricultural wage-earners falling under the scope of the Employees' Social Security Act, as amended in 1992 are covered in practice. Please also supply statistical data, as required by point V of the report form adopted by the Governing Body.

Rwanda (ratification: 1962)

In reply to the Committee's previous comments, the Government indicates that studies are at an advanced stage for the improvement of the conditions of agricultural workers, temporary workers and day workers at the level of both public authorities and employers' and workers' organizations. The Committee notes this information. It hopes that the Government will be able, in accordance with the Convention and the assurances it has been giving for over ten years, to take appropriate measures, in the light of the results of these studies and with ILO assistance if necessary, to explicitly extend the application of the Legislative Decree of 20 August 1974 (on the organization of social security) to all agricultural workers, including day workers

and temporary workers. The Committee asks the Government to indicate progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1996.]

* * *

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

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

Requests regarding certain points are being addressed directly to the following States: Cambodia, Central African Republic, Guatemala, Lao People's Democratic Republic, Malta, Russian Federation.

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

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

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

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

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

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

Antigua and Barbuda (ratification: 1983)

In reply to the Committee's earlier comments, which have been made for a number of years, the Government indicates that there has been no change in the existing legislation. The Government adds, however, that it has taken due note of the Committee's comments. In this situation the Committee cannot but once again ask the Government to take the necessary measures in order to bring national legislation and practice into full conformity with the following Articles of the Convention:

Article 5 of the Convention. Section 8 of the Workmen's Compensation Ordinance No. 24 of 1956 should be completed so as to ensure that the compensation due in the event of accidents causing permanent incapacity shall be paid in the form of periodical payments to the injured workman or his dependants. However, the compensation

may be paid wholly or partially in a lump sum, if the competent authority is given guarantees that it will be properly utilized.

Article 7. Section 9 of Ordinance No. 24 of 1956 does not provide for additional compensation in respect of the assistance of a third person except in cases of temporary incapacity, whereas the Convention provides in such cases for the provision of additional compensation to the victims of injuries who suffer from temporary or permanent incapacity.

Article 2. In accordance with section 6, paragraph 3, of Ordinance No. 24 of 1956, the employer is responsible for paying the "expenses and reasonable cost" of medical treatment up to a prescribed amount, whereas the Convention does not prescribe any limits in this respect. Furthermore, surgical and pharmaceutical assistance would not appear to be provided for in the legislation in accordance with this Article of the Convention. The Committee therefore requests the Government to take the necessary steps in order to ensure that full effect is given to this provision of the Convention.

Article 10. The Committee notes from the Government's report that there are no provisions under which the supply of surgical appliances is generally prescribed. It points out that section 10 of Ordinance No. 24 of 1956 provides for the supply of artificial limbs only when this is likely to improve capacity for work, whereas the Convention prescribes this in all cases when they are recognized to be necessary without permitting the supply of artificial limbs to be restricted to cases where they are necessary to improve capacity for work. The Committee therefore requests the Government to take the necessary steps in order to bring national legislation fully into conformity with this Article of the Convention.

Kenya (ratification: 1964)

1. In reply to the Committee's previous comments, the Government states in its report that it has found it necessary to once again refer the proposed legislation on the Work Injury Benefits (Insurance) Scheme to the Tripartite Labour Advisory Board for further detailed discussions with a view to bringing it into total harmony with the relevant provisions of the Convention. It adds that the proposed legislation which also aims at incorporating the views of the Committee has now been submitted to Parliament for possible enactment. The Committee notes this information. It hopes that this legislation will be adopted soon so as to give full effect to the provisions of the Convention, that the final text will eliminate all previously noted discrepancies with the Convention on the following points and that it will also take into consideration the points raised by the ILO in its communication dated 12 October 1990.

Article 2 of the Convention. Section 22(2) of the draft text excludes the compensation of industrial accidents for workers ordinarily employed outside Kenya but temporarily employed in Kenya by an employer who carries on business chiefly outside Kenya, unless an agreement has been concluded to the contrary. This exclusion falls outside the cases mentioned in Article 2, paragraph 2, of the Convention.

Article 5. (a) In its previous comments, the Committee drew the Government's attention to the fact that the provisions of the previous draft text provided, contrary to the Convention, for the payment of a lump sum where a degree of incapacity is less than 40 per cent or where the amount of the compensation is less than a certain sum, under conditions which are not authorized by this provision of the Convention. The Committee notes in this context that section 56(1) of the latest draft text supplied by the Government prohibits the conversion into a lump sum of a pension in cases in which the degree of permanent disability is higher than 20 per cent. It therefore hopes that section 48(1)(c) and (d) will be brought into line with section 56(1) so as to provide for the payment of compensation in the form of a lump sum only when the degree of incapacity does not exceed 20 per cent.

(b) Furthermore, the Committee considers that it would be desirable to replace the term "accident" by the term "death" in section 4(1)(b) and section 50(1), in order to take into account situations in which the death of a victim of an industrial accident occurs after the accident.

Article 7. In view of the fact that the additional compensation to be provided in cases where the incapacity requires the constant help of another person must be paid, in accordance with this provision of the Convention, for as long as the state of health of the injured person requires it, the Committee considers that it would be desirable to delete from section 57(1) of the draft text the words "as may be required for a specified period which shall be reviewed from time to time".

Articles 9 and 10. (a) Section 69(2) of the draft text provides for the fixing of maximum amount of compensation for expenses, particularly for medical, surgical, pharmaceutical and hospital treatment, and the supply and replacement of artificial limbs and surgical appliances, whereas the determination of a ceiling of this type is not authorized by the Convention, as the Committee has emphasized for many years.

(b) Furthermore, the Committee wishes to draw the Government's attention to the fact that the medical aid provided for in Article 9 of the Convention must be provided to injured workmen irrespective of the duration of their incapacity for work. It therefore considers that it would be desirable to delete from the definition of the term "accident" in section 2 of the draft text the terms "or results in that worker being incapacitated for work for more than three consecutive days excluding the day of the accident and any Sunday, or if Sunday is not a rest day, one rest day", particularly since section 36(2) of the draft text already provides for a waiting period of three days for the payment of cash benefit when the incapacity lasts for less than three weeks.

2. The Committee recalls that in its report of 1991, the Government stated that it had the intention of immediately updating the Workmen's Compensation Act which is currently in force with a view to meeting the requirements of Article 5 of the Convention, as well as raising the level of payments for medical, surgical or pharmaceutical aid in the event of industrial accidents, in order to give better effect to Articles 9 and 10 of the Convention. The Committee would be

grateful if the Government would indicate in its next report whether the above amendments have been adopted.

The Committee also wishes to draw the Government's attention to the possibility of availing itself of the technical assistance of the Office for the implementation of the new system of compensating industrial accidents.

Malaysia (ratification: 1961)

Peninsular Malaysia

Article 2 of the Convention. With reference to its previous comments, the Committee notes with satisfaction that following the amendment of the Employees' Social Security Act of 1969 by the Employees' Social Security (Amendment) Act, 1992, which came into force on 1 July 1992, the Act now covers all establishments having one or more employees.

The Committee also notes with interest that the Act now applies to all employees whose wages do not exceed 2,000 Malaysian dollars a month (previously \$1,000) and allows coverage for new employees earning more than this limit, provided both the employer and employee agree to this arrangement. According to the Government, an employee who is once covered by the Act will continue to be so covered even after his monthly wages exceed the above limit. The Government adds that with these amendments all employees in the private sector are now covered under the Act.

In view of the above explanations, the Committee hopes that the Government will have no difficulty in extending the coverage of the Act to all employees irrespective of the amount of their monthly wages, in accordance with Article 2, paragraph 1, of the Convention, subject however to the possibility provided in its paragraph 2 to exclude non-manual workers whose remuneration exceeds the prescribed limit.

Myanmar (ratification: 1956)

With reference to its previous comments, the Committee notes that the new draft Law on Workmen's Compensation revising the Workmen's Compensation Act of 1923 is still under review by the Laws Scrutiny Central Body. It therefore once again expresses the hope that the new Law, to which the Government has been referring for many years, will be adopted shortly so as to provide, in particular:

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

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

[The Government is asked to report in detail for the period ending 30 June 1994.]

New Zealand (ratification: 1938)

With reference to its previous comments, the Committee takes note of the information provided by the Government in its report as well as of the observation made by the New Zealand Council of Trade Unions (NZCTU).

Article 9 of the Convention. The Committee recalls that in its previous communication made in 1992, the New Zealand Council of Trade Unions had pointed out that, under the new Accident Rehabilitation and Compensation Insurance Act of 1992 and its regulations, victims of industrial accidents are now required to bear a part of the costs of the necessary medical and other treatment, contrary to this provision of the Convention. It referred in particular to section 27 of the 1992 Act according to which the Accident Rehabilitation and Compensation Insurance Corporation is only required to "contribute" to the cost of treatment and other services in respect of a personal injury "to the extent required or permitted by regulations made under this Act" and shall not "make any payment" unless it is satisfied that the treatment and other services involved are necessary and appropriate and not excessive in number or duration. The NZCTU added that under section 28 of the said Act the Corporation will only advance the cost of private hospital treatment on the basis that the cost is subsequently recovered from compensation payable to the injured worker or from the worker himself. In a new communication appended to the Government's report, the NZCTU further indicates that it has estimated that injured New Zealand workers are having to personally pay up to NZ\$100 million per year in treatment costs for work injuries, being the difference between the amount reimbursed by the Accident Compensation Corporation under the above Act of 1992 and its regulations, and the actual cost of the treatment for those work injuries.

In reply, the Government states that these observations have highlighted problems of compliance with the Convention and acknowledges that New Zealand law no longer complies with its Article 9. A decision to rectify this situation has been taken in principle and will be implemented in law as soon as practicable. The Government adds that the relevant regulations are about to be revised as a result of the Committee's comments.

The Committee notes this information. In view of the importance of the issue, it trusts that, in conformity with the assurances given, the Government will, in the very near future, take the necessary measures to revise the national legislation so as to give full effect to Article 9 of the Convention, according to which the cost of medical, surgical and pharmaceutical aid recognized to be necessary in consequence of industrial accidents shall be defrayed either by the employer or by the insurance institutions, and thus shall not be borne by the injured workman himself.

Article 10. In its last communication the NZCTU states that while Article 10 of the Convention provides for the supply and normal renewal of artificial limbs and surgical appliances at no cost to the injured worker, the relevant regulations contain limitations on such reimbursements. The Government indicates in its report that the supply and renewal of necessary surgical appliances and artificial limbs is governed by the Accident Rehabilitation and Compensation Insurance (Social Rehabilitation - Aids and Appliances) Regulations 1992 and the Accident Compensation (Prescribed Artificial Limbs, Aids and Prosthetic Appliances Costs) Regulations 1990, and that the amounts payable are subject to certain monetary maximums and minimums in given situations. It further states that it is giving serious consideration to the NZCTU's claim that the accident rehabilitation and compensation insurance scheme does not adequately cover the cost associated with the supply and renewal of the appliances in question, and that it will report on this matter when the necessary examination of the situation has been completed. If the problems alleged are shown to exist, the Government will take steps to remedy the situation.

The Committee notes these statements. It recalls in this connection that Article 10 of the Convention establishes the general principle of the free supply and renewal of such artificial limbs and surgical appliances as are recognized to be necessary at no cost to the injured worker. The Committee hopes that the Government will provide a report for examination at its next session and that it will contain detailed information on the issues raised by the NZCTU under this Article of the Convention. It would also like the Government to indicate whether and in what cases, under section 27 of the Act of 1992 or under any regulations made thereunder, an injured worker would be required to bear part of the cost of the supply and normal renewal of the prescribed artificial limbs and surgical appliances covered by Article 10 of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Panama (ratification: 1958)

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

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

Government to supply information on any progress achieved in this respect.

Saint Lucia (ratification: 1980)

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

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

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

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

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

Sierra Leone (ratification: 1961)

Article 5 of the Convention. For a number of years, the Committee has been drawing attention to the fact that sections 6, 7 and 8 of the Workmen's Compensation Ordinance 1954, as amended in 1969, are not in conformity with this provision of the Convention, since, although they provide for periodic payments equivalent in theory to the amount of wages, they restrict payment of compensation to a certain number of months, whereas according to the Convention this payment should be made throughout the whole contingency.

In its reply received in September 1992 the Government, after referring to a mission conducted in Sierra Leone by the ILO regional adviser for social security, stated that discussions were held with social partners as well as with UNDP with a view to carrying out a planning consultancy which would devise a strategy for the future development of a social security system for the country. It was hoped that on the basis of its recommendations the current scheme, which is based on the principle of employers' liability backed by commercial

insurance (and paying lump-sum benefits), will be replaced with a more modern employment injury scheme based on social insurance providing periodical payments. However, in its subsequent report received in December 1993 the Government limited itself to stating that no change has occurred in the application of the Convention. In this situation the Committee once again hopes that the Government will not fail to consider the above-mentioned issue and that its next report will contain information on the measures taken or contemplated to give full effect to Article 5 of the Convention.

Suriname (ratification: 1976)

Article 7 of the Convention. In reply to the Committee's previous comments, the Government states that the report on the establishment of the national social security scheme is still under study by an interdepartmental committee. It adds that it has asked the ILO for assistance with the social programme of structural adjustment which will allow it to bring national legislation into conformity with the ratified Conventions, and that an ILO mission in the social security field is expected to take place in the near future. The Committee notes this information. It once again trusts that, with the assistance of the ILO, if necessary, appropriate measures will be taken soon to adopt provisions ensuring additional compensation for victims of industrial accidents requiring the constant help of another person, in conformity with this provision of the Convention. The Committee asks the Government to indicate in its next report any progress achieved in this connection.

United Republic of Tanzania (ratification: 1962)

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

1. Article 5 of the Convention. In reply to the Committee's previous observation, the Government indicates that a new draft of the "Consolidated Social Security Legislation" is being prepared with the help of the International Labour Office and that the final text will be communicated to the Committee for comments. The Committee notes this information and once again expresses the hope that the above-mentioned legislation will be adopted soon and that consequently the Workmen's Compensation Ordinance, Chapter 263, will be amended so as to ensure, in accordance with this Article of the Convention, that the compensation payable to the injured worker, or his dependants, where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments, provided that it may be wholly or partially paid in a lump sum, if the competent authority is satisfied that it will be properly utilised. Please supply information on any progress made in this respect.

Guinea-Bissau (ratification: 1977)

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

With reference to its previous observation, the Committee notes with regret from the information supplied by the Government that no progress has been made in completing the existing legislation by including a list of occupational diseases, in accordance with the provisions of Article 2 of the Convention. It recalls that in its previous report the Government stated its intention of resolving this question in the near future. In view of the importance of the question, the Committee is bound once again to insist that the void which it noted in the legislation be filled by the adoption in the very near future of a list of occupational diseases including, at least, those enumerated in the schedule appended to Article 2 of the Convention which shall be recognized as occupational diseases when they are contracted in the circumstances specified in the above schedule.

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

Sao Tome and Principe (ratification: 1982)

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

With reference to its previous comments, the Committee notes the new Social Security Act, No. 1/90, of 31 January 1990. It notes that, like the former legislation, the new Act does not contain a list of occupational diseases as set out in Article 2 of the Convention. The Committee notes, however, that pursuant to section 87(2) of the Act, diagnosis of occupational diseases is carried out by medical services on the basis of specifically defined technical standards. Furthermore, section 146(1) of Act No. 6/92 of 20 March 1992 issuing the rules on individual conditions of work requires employers to report occupational diseases and keep a record of them.

The Committee would be grateful if the Government would provide detailed information on the manner in which diagnosis of occupational diseases is carried out in practice for purposes of compensation and to provide a copy of the technical standards adopted under section 87(2) of Act No. 1/90. It trusts that the Government will not fail to take the necessary measures, in the context of the above technical standards or any other implementing regulations, to adopt in the very near future a list of occupational diseases which includes at least those contained in the Schedule to Article 2 of the Convention, setting out the diseases which are to be recognized as such in the event that they are contracted in the circumstances set out in the Schedule. In this connection, it suggests that the Government might wish to seek technical assistance from the ILO.

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

* * *

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

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

Central African Republic (ratification: 1964)

With reference to its previous comments, which it has been making for a number of years, the Committee notes with regret that for one more year the Government's report has not been received. It noted, however, the discussion that took place in the Conference Committee in June 1993 concerning the application by the Central African Republic of Convention No. 118, and in particular the Government's statement according to which it was actively preparing the draft texts containing the necessary amendments to the legislation. In this situation, the Committee once again expresses the hope that these amendments will be adopted in the near future in order to guarantee, in conformity with Article 1, paragraph 2, of the Convention, survivors' benefits provided under the legislation on compensation for industrial accidents to the dependants (survivors) of a worker, a national of another State bound by the Convention, who were resident outside the Central African Republic at the time of the worker's death and who continue to be so resident, if it is proved that they were actually dependent on the worker at the time of his death. The Committee hopes that a report will be supplied for examination at its next session and that it will contain full information on the progress made in this respect.

Guinea-Bissau (ratification: 1977)

With reference to its previous comments, which it has been making for a number of years, the Committee notes with regret that for the third year in succession the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in the request addressed directly to the Government.

Iraq (ratification: 1940)

The Committee took note of the information supplied by the Government in reply to its previous comments, which dealt in particular with the follow-up of the conclusions and recommendations

approved by the Governing Body at its 250th Session (May-June 1991) of the Committee set up to consider the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution alleging non-observance by Iraq of a number of Conventions.

1. In its previous comments the Committee had asked the Government to supply the text of Decisions Nos. 603 and 604 of 1987 and to indicate what other provisions or contractual conditions may affect the right of foreign workers engaged in state enterprises, such as arms factories, to receive compensation for industrial accidents both in Iraq and in the country of their new residence. In reply the Government has supplied the text of the above Decisions. The Committee notes that Decision No. 603 applies to temporary workers whose rights and obligations are subject to the laws and rules of service and of retirement and to the respective decisions of the Council of Command of the Revolution (section 7). According to section 5, their service is terminated at the expiration of the fixed period of employment or at the completion of the work for which they were engaged, whichever happens earlier. Please indicate which provisions of the legislation ensure the right of such workers to receive compensation in the case of industrial accidents and particularly in the cases where they terminate their service before the expiration of the fixed period of employment or the completion of the work for which they were engaged (see also under point 2 below).

2. In its previous comments, the Committee observed that under section 38(b)(ii) of Law No. 39 of 1971, which provides for the payment of compensation abroad to an Arab citizen if he has "returned to his country at the end of his insured period of service", Arab workers who leave Iraq before their contract period has expired or who settle in a country other than their country of origin, may be refused payment of compensation due to them. On the other hand, under the same provisions no such restrictions are applied in respect of Iraqi workers. In reply, the Government states that while the regulations issued in application of section 38, which are applied to Iraqi nationals are, no doubt, different from those applied to Arab workers, the latter are not being discriminated against in so far as payment of compensation due to them is concerned. It adds that Instruction No. 2 of 1978 regarding payment of social security pensions to insured persons leaving Iraq is currently being studied by the Government with a view to its revision. The Committee hopes that the Government will not fail to indicate the legislative measures taken or contemplated to ensure equality of treatment between nationals and Arab workers in respect of compensation for industrial accidents, particularly in the case of their residence abroad, including the modifications to Instruction No. 2. Please supply a copy of the text of such legislative measures when adopted.

3. As regards payment of compensation for industrial accidents to workers residing abroad, the Government indicates that it is difficult for it to resume such payments as the situation with respect to Iraqi funds in foreign banks has not changed. The Committee would like the Government to continue to provide information on any measures taken or contemplated with a view to resuming payment of compensation

for industrial accidents to beneficiaries residing abroad accompanied by the relevant statistical data.

4. Finally, the Committee notes that the Government's report does not contain any information on certain other questions raised in its previous observation. It therefore once again hopes that, in its next report, the Government would not fail to provide the required information on the following points:

- (a) As regards nationals of States bound by the Convention other than Arab countries, the Committee recalls that under section 38(b)(iii) of Law No. 39, no payment of benefits is made outside Iraq except under reciprocity agreements or international labour Conventions and subject to the necessary authorization under Instruction No. 2 of 1978 regarding the payment of social security pensions to insured persons leaving Iraq. Please indicate measures taken or contemplated at the level of the Iraqi Institute of Social Security to ensure, without any restrictions, that in all cases compensation benefits are paid to all workers who are nationals of a country bound by the Convention, in their new country of residence.
- (b) Please indicate whether workers who had left Iraq at the time of the war and who had no opportunity to present their requests for payment of the compensation due to them, may now do it from their new place of residence abroad and, if so, in what way.

[The Government is asked to report in detail for the period ending 30 June 1994].

Mauritius (ratification: 1969)

Article 1 of the Convention. In its previous comments the Committee pointed out that section 3 of the National Pensions (Non-Citizens and Absent Persons) Order, 1978, as amended, according to which foreign nationals cannot be affiliated to the insurance scheme unless they have resided in Mauritius for a continuous period of not less than two years, is not in conformity with Article 1, paragraph 2, of the Convention which provides that equality of treatment in respect of compensation for industrial accidents shall be guaranteed without any condition as to residence to the nationals of every State which has ratified the Convention and who are victims of an industrial accident, as well as to their dependants. In its last reply, the Government once again states that measures to ensure compliance with Article 1, paragraph 2, of the Convention are still being considered. In this situation the Committee cannot but once again express the hope that measures to give full effect to this provision of the Convention will be adopted soon and that the Government will be able to indicate progress made in its next report.

South Africa (ratification: 1926)

1. The Committee notes with interest from the Government's report that the Workmen's Compensation Act, No. 30 of 1941, has been revised in its entirety, redrafted and approved by Parliament in

September 1993. It hopes that a copy of the revised Act, as indicated by the Government, will be supplied in time to be examined at its next session.

2. With reference to its previous comments concerning the application of the Convention in the "homelands", the Committee notes the Government's statement that arrangements exist with these areas for mutual assistance regarding all matters concerning workmen's compensation including the tracing of beneficiaries and the payment of compensation due to them. It also notes that, although statistics on the total number of foreign workers or the total number of accidents in the country have not been made available, the Government has provided statistics on the number of foreign workers in service on gold-mines and coalmines affiliated to the Chamber of Mines of South Africa, including the number of foreign workers who were involved in compensatory accidents. The Committee would like the Government to continue to provide the available statistical information on the number and nationality of foreign workers employed in the country, as well as to supply the texts of the above-mentioned arrangements and of the legislation concerning employment injury compensation adopted by each of the "homelands". It also hopes that, following the adoption of the new Constitution, the Government will take all the necessary measures in order to provide full information on the manner in which the Convention is applied throughout the entire territory of South Africa, including the "homelands", which are covered by the ratification of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Syrian Arab Republic (ratification: 1960)

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Comoros, Guinea-Bissau, Lebanon, Malaysia, Saint Lucia.

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

Chile (ratification: 1933)

The Committee notes the information supplied by the Government in reply to its comments and to the new observations of 30 May 1993 made by the National Confederation of Bakers' Trade Unions (CONAPAN) reiterating its allegations that the Convention is not applied and urging the competent authorities to take the necessary measures to ensure its implementation.

The Committee notes that, in the Government's view, no regulations may be issued on the subject, because this would be contrary to the Constitution (which guarantees freedom of work and prohibits all forms of discrimination) and because a restriction on night work would not be acceptable given the economic legislation. The Government also indicates that the outcome of consultations held periodically with representatives of employers' and workers' organizations was that banning nightwork in bakeries was no longer warranted, particularly in view of technological changes, the organization of production and improved conditions of work. The Committee notes that, in a reply sent to the Government on 7 October 1993, the Chilean Federation of Baking Industries stated that it was in favour of denouncing the Convention.

The Committee is bound to recall that, until denunciation is registered to become effective one year later, the Government remains bound by the this Convention. It trusts that the Government will be able to clarify the status of its obligations under the Convention at the earliest possible date.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

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

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

Colombia (ratification: 1933)

With reference to its previous observation, the Committee notes the information supplied by the Government in its report to the effect that the draft Decree to give effect to the Convention is currently being revised by the Legal Office of the Ministry of Labour and Social Security. In this respect, the Committee notes that, if the above draft text were to be adopted in its current form, it would give effect to Articles 1, 2, 3 (paragraphs 1, 4 and 6), 4, 5 (paragraph 1 (in part)), 6, 9 (paragraph 1), 10, 11 and 12 of the Convention. Nevertheless, measures would still need to be taken to give effect to Article 3, paragraph 2 (conditions under which agreements are signed), Article 5, paragraphs 1 and 2 (form of the document, the particulars to be recorded and the manner in which they are to be entered), Article 8 (information on conditions of employment on board), Article 9, paragraph 2 (conditions governing the giving of notice) and paragraph 3 (exceptional circumstances in which notice even when duly given does not terminate the agreement), and Article 15 (measures to ensure compliance with the terms of the Convention). The Committee trusts that the Government will supply additional information on the adoption and coming into force of the above draft text and that it will take the necessary measures to ensure that effect is given to all the provisions of the Convention by specific legislative measures.

The Committee would also be grateful if the Government would supply detailed information on the effect given in practice to Articles 7, 13 and 14, and if it would provide the information called for in point V of the report form. Finally, the Government is requested to supply a copy of the document referred to in Article 5.

Liberia (ratification: 1977)

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

With reference to its earlier comments, the Committee hopes that the Government will take the necessary action to ensure the application of Article 3, paragraph 4, Article 5, paragraph 2, Article 9, paragraph 2, Article 10(a) and (b), and Articles 13 and 14, paragraph 2, of the Convention.

Pakistan (ratification: 1932)

The Committee notes that the Government's report has not been received. It refers to its earlier observations concerning Articles 1 and 5(2) of the Convention and the discussion in the Conference Committee in 1992, as well as the Government's report for the period ending 30 June 1991 (received October 1992) and the comments of the All Pakistan Federation of Trade Unions (APFTU), dated 11.10.93, and the Pakistan National Federation of Trade Unions (PNFTU), dated 5.10.93.

The Government indicated in 1992 that the Committee's observations would be dealt with in the newly drafted Merchant Shipping Bill, then to be put to the National Assembly; and the Conference Committee hoped that the legislation would be amended as soon as possible, the matter having been outstanding for many years, and that the Government would provide a copy. However, the APFTU has pointed out that the draft should be placed before the Assembly newly elected on 6 October 1993.

The Committee recalls that, under Article 1, the Convention applies to all seagoing vessels registered in the territory, and thus covers engagements taking place in ports outside Pakistan. It notes that the new section 155 of the Act, as it appears in the draft transmitted by the Government in 1992, would seem to satisfy Article 1.

Article 5 of the Convention, requiring the supply to seafarers of a document recording their employment on board a vessel but not containing any statement of quality of work or wages, seems to be implemented by section 161 of the 1992 draft. However, the Committee recalls the requirement as to a separate certificate (Article 14(2)), stating the quality of work or whether obligations under the articles of agreement have been discharged: this could be met by not deleting the present section 43A but amending it so that it applies to discharges wherever they take place, and specifying that such certificate is separate from a section 161 document.

The Committee hopes the Government will supply a report indicating the progress made in ensuring the application of these provisions of the Convention and including a copy of the amending legislation. It also hopes that, in the light of the PNFTU suggestion, the Government will provide specimens of both the Article 5 document and the Article 14(2) certificate, as amended.

Venezuela (ratification: 1944)

The Committee notes the information supplied by the Government in its report and, in particular, the adoption of the Organic Labour Act of 1990, and the Regulations of 1992 respecting labour on board vessels sailing at sea, in rivers and lakes, which was issued under the Organic Labour Act. The Committee notes that, despite the repeated comments that it has been making for a number of years, the above legislation does not contain provisions which give full effect to Articles 8, 9, paragraph 1, Article 13, paragraph 1, and Article 14, paragraph 2, of the Convention. The Committee trusts that the Government will take the necessary measures to bring its legislation into conformity with the above provisions of the Convention and that, in this respect, it will take into account the comments which are being made in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Djibouti, Ghana and Venezuela.

Convention No. 23: Repatriation of Seamen, 1926

Liberia (ratification: 1977)

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

The Committee hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on measures to apply Article 5 of the Convention, to which the Committee referred in its previous observation.

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

Peru (ratification: 1945)

The Committee took note of the observations transmitted by the Central Union of Workers of the Peruvian Social Security Institute and

the Government's reply. The Central Union of Workers alleges, in particular, that the new measures introduced by the Government with the aim of privatizing the system have resulted in the commercialization of workers' health. For its part, the Government has referred in its report to a health organization project to be elaborated in the Democratic Constituent Congress which provides better possibilities for covering the entire national population by the extension of its geographic scope. The Government also mentioned that article 11 of the 1993 Constitution declares that "the State shall guarantee free access to health and pension benefits by means of public, private or mixed institutions. It also supervises their efficient functioning". The Committee takes note of this information. It recalls that, in its 1992 observation, it requested the Government to communicate detailed information on the measures taken in practice to ensure the extension of health services over the entire national territory and to provide them with the necessary infrastructure to protect all the workers covered by the Convention. The Committee therefore hopes that all new legislation adopted in the area of sickness insurance will take fully into account the provisions of the Convention. It trusts that the next report of the Government will contain the information requested in its previous observation, as well as detailed explanations, for each of the Articles of the Convention, on the provisions in laws and regulations which make it possible to ensure its full application in law and practice.

* * *

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

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

Peru (ratification: 1945)

See under Convention No. 24.

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

Austria (ratification: 1974)

Referring to the comments made by the Federal Chamber of Labour concerning the effects of employers' withdrawing negotiating mandates for collective agreements on the fixing of minimum wage rates, the Government describes in its report the methods of wage fixation for four different groups of workers. The Government states that the regulation of terms of employment and remuneration by collective agreement is not the subject of the Convention.

The Committee takes due note of these indications. It, however, recalls again the obligation for the ratifying State, under Article 1

of the Convention, to create or maintain minimum wage-fixing machinery for workers employed in certain of the trades or part of trades in which two conditions are fulfilled, namely: (i) the absence of arrangements for the effective regulation of wages by collective agreement or otherwise; and (ii) the existence of exceptionally low wages. Therefore, if the withdrawal of negotiating mandates of employers may result in the absence of wage regulation by collective agreement, it should be examined whether the wages are exceptionally low in the trade concerned in order to determine the necessity of the minimum wage-fixing machinery for that trade. The Committee would be grateful if the Government would indicate the consequences of the withdrawal of negotiating mandates of employers in this respect.

[The Government is asked to report in detail for the period ending 30 June 1994.]

China (ratification: 1930)

With reference to the previous comments, the Committee notes the indications in the Government's report to the effect that the Government is drawing up a regulation on minimum rates of wages in enterprises, and that this regulation will include not only the principles and methods for determination of minimum wage rates but also the procedures of protection and inspection for the application of the minimum rates fixed. It notes in particular the Government's reference to economic penalties to be provided in the regulation for failure to comply with the minimum wages (Article 4, paragraph 1, of the Convention).

The Committee hopes that the Government will supply information on the progress made in the preparation of this regulation as well as its text. It also requests the Government to provide information on the practical application of the Convention under the existing national legislation, in accordance with Article 5 and point V of the report form.

Colombia (ratification: 1933)

The Committee notes the information supplied by the Government in reply to the observations made by the General Confederation of Labour (CGT).

The Government indicates that teachers can be engaged on the basis of labour contracts and civil contracts and refers in this connection to a Decree No. 222 of 1993. It describes two methods implemented in 1993 as follows: (a) a system of provision of services ("Ordencs de Prestación de Servicios"), for the primary level, with a period of 10 months and a monthly remuneration of 110,000 pesos; (b) "Horas Catedra", for the secondary, with 13 months of salary, including social benefits. The Government states that these rates are in conformity with the statutory minimum wage established for the national territory.

The Committee notes that Decree No. 0222 of 1993 published in the Official Gazette of 1 February 1993 concerns neither education nor

remuneration, and requests the Government to communicate the text of the Decree it referred to. It requests the Government to indicate whether the above rate of 110,000 pesos per month is applicable to all the regions including the Department of Santander, which was specifically mentioned by the CGT, and also to describe how it is ensured that the above-mentioned conditions are observed at local level.

The Committee is also addressing a direct request to the Government concerning certain points.

India (ratification: 1955)

1. The Committee notes the observations made by the Hind Mazdoor Sabha (HMS) workers' organization on the application of the Convention. As to the guidelines issued by the Central Government for the fixation of regional minimum wages, to which the Committee referred in its previous comments, HMS states that no progress was made in the actual regional minimum wage fixing, because of the lack of agreement. It points out that several states with a varying degree of industrial development are grouped in a region, and that the guidelines have no statutory force like the Minimum Wages Act, 1948. Besides, HMS considers that the division of a state into wage zones should be minimized for easier implementation, and observes that the application of revised minimum wages is often suspended because the case is referred to the High Court on technical grounds. HMS also mentions the difficulties of applying the minimum wage to homeworkers, in spite of the theoretical coverage of the Minimum Wages Act. As to the enforcement, HMS indicates difficulties facing the inspectors, such as the lack of transport facilities.

The Committee notes that the Government has not communicated its comments on these observations, and invites it to do so and to provide also comprehensive information on the results of the application of the minimum wage-fixing machinery in accordance with Article 5 of the Convention. As to the implementation of the minimum wages, the Committee recalls that the Government's awareness of such impediments as shortage of staff, lack of transport facilities has already been noted in the previous direct request. It again hopes that the Government will maintain its consciousness of this issue and will continue to indicate any measures taken to ensure better application of the law on minimum wages in the entire territory.

2. The Committee recalls that in its previous comments, it considered the comments made by the Bharatiya Mazdoor Sangh (BMS) workers' organization concerning, inter alia, the application of a series of recommendations that had been made by the Labour Ministers' Conference of the States of the Union. The Committee then noted the Government's indication that it was considering amendments to the Minimum Wage Act, 1948, to provide for the review of minimum wages at intervals not exceeding two years, or when there are variations in the consumer price index, and also that the Government was examining amendments to increase the penalties for violations of the Minimum Wages Act. Noting that no new information has been available in this regard, the Committee requests the Government to indicate the progress

achieved in amending the Minimum Wage Act in line with the above recommendations.

3. The Committee is also addressing a direct request to the Government on certain points.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Bahamas, Belize, Benin, Bulgaria, Central African Republic, Colombia, Djibouti, Dominica, Ghana, Grenada, Guatemala, Guinea-Bissau, India, Lesotho, Malawi, Seychelles, Slovakia, Solomon Islands.

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

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

Requests regarding certain points are being addressed directly to the following States: France, Hungary.

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

Convention No. 29: Forced Labour, 1930

Austria (ratification: 1960)

The Committee notes the information provided by the Government in its report. The Committee also notes the observations made by the Austrian Congress of Chambers of Labour on the application of the Convention.

Article 2, paragraph 2(c), of the Convention. In comments made for several years, the Committee has noted that some of the work done by prisoners was performed in workshops managed by private undertakings inside the prisons under arrangements made with the prison authorities, who place prison labour at the disposal of such undertakings and remain responsible for their supervision with regard to security, while the private employees of the undertaking concerned direct the prisoners' work with the approval of the prison authorities.

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

In its latest report the Government, referring to its previous statements, reiterates its view that the conditions for employment of

prisoners in workshops or undertakings managed privately are not in contradiction with the Convention and that in particular consent of the prisoner concerned is required only for work outside the prison premises, this being provided for in the law concerning the execution of sentences.

The Committee must point out once more that Article 2, paragraph 2(c), of the Convention explicitly prohibits that persons from whom work is exacted as a consequence of a conviction in a court of law be placed at the disposal of private individuals, companies or associations. Only work performed in conditions of a free employment relationship can be held not to be incompatible with this prohibition; this necessarily requires the formal consent of the person concerned and, in the light of the circumstances of that consent, guarantees and safeguards in respect of wages and social security that are such as to justify the labour relationship being regarded as a free one.

In its previous report the Government indicated that a substantial increase in remuneration and the integration of prisoners in the unemployment scheme were among the declared aims of the Government. The Committee notes the Government's information in its latest report that in 1993 a Bill to amend the law concerning the execution of sentences was submitted to Parliament and provides for a substantial increase in the remuneration for prisoners and the integration of prisoners into the unemployment insurance. These changes should enhance prisoners' chances of social rehabilitation and thus reduce the statistically substantial risk of recidivism. The Government adds that the Bill is currently under consideration by a subcommittee of the Parliament's Committee of Justice and once adopted might enter into force in 1994. It is also planned to include prisoners into the statutory social security insurance but only during the next legislative period.

The Committee notes that the Congress of Chambers of Labour states in its observation that it concurs with the views expressed by the Committee. The Congress further observes that the necessary increase in remuneration and the inclusion in social security schemes are declared objectives of the Government, but have not yet been carried out.

The Committee hopes that the Government will soon be in a position to report on the adoption of the above-announced measures as well as on all arrangements made to ensure that the prisoner's formal consent is sought for work in workshops managed by private undertakings, including those inside prisons.

Bahrain (ratification: 1981)

With reference to its previous comments, the Committee notes with satisfaction that new section 302bis incorporated in the Penal Code of 1976 by Legislative Decree No. 6 of 1993 (published in Official Journal No. 2047 of 17 February 1993) provides that, without prejudice to the provisions of section 198 of the Penal Code, anyone who subjects workers to forced labour for a specific job or who withholds

without due cause the whole or a part of their wages is liable to imprisonment and a fine or to one or other of these two penalties.

Bangladesh (ratification: 1972)

The Committee notes the Government's report. The Committee has also taken note of the observations of 13 October 1993 by the Bangladesh Employers' Association.

1. Legal restrictions on termination of employment

In previous comments the Committee noted that under the Essential Services (Maintenance) Act, No. LIII of 1952, it is an offence punishable with imprisonment for up to one year for any person in employment of whatever nature under the central Government to terminate his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination by notice (sections 2, 3(1)(b) and explanation 2, and section 7(1)). Pursuant to section 3 of the Act, these provisions may be extended to other classes of employment. Persons to whom the Act applies may also be ordered, subject to penal sanctions, not to leave specified areas (sections 4, 5(c) and 7(1)). Similar provisions are contained in the Essential Services (Second) Ordinance, No. XLI of 1958 (sections 3, 4(a) and (b) and 5).

The Committee notes the Government's indication in its report that according to article 36 of the Constitution, all forms of forced labour, except (i) by persons undergoing lawful punishment for criminal offence or (ii) as required by any law for public purposes, are prohibited and any contravention thereof is punishable in accordance with law.

The Committee also notes that in its observations the Bangladesh Employers' Association considers that under the Essential Services (Second) Ordinance, 1958, the Government is empowered to declare certain classes of employment as essential for the maintenance of public order or for maintaining services necessary to the life of the community and this is permissible under Articles 9 and 10 of the Convention.

The Committee again refers to the explanations provided in paragraph 67 of its 1979 General Survey on the Abolition of Forced Labour, where it indicated that workers may be prevented from leaving their employment in emergency situations within the meaning of Article 2, paragraph 2(d), of the Convention, i.e. any circumstances that would endanger the life, personal safety or health of the whole or part of the population. Restrictions under the essential services legislation referred to are not limited to such circumstances. The Committee has also pointed out in paragraph 116 of the same General Survey of 1979 that, even regarding employment in essential services whose interruption would endanger the existence or the well-being of the whole or part of the population, there is no basis in the Convention for depriving workers of the right to terminate their employment by giving notice of reasonable length. The Bangladesh

Employers' Association has referred to Articles 9 and 10 of the Convention, which specify conditions and guarantees under which forced labour could, in certain exceptional circumstances, be exacted during the transitional period with a view to its complete suppression; aimed at phasing out certain colonial practices, these provisions provide no basis for turning a contractual relationship based on the will of the parties into service by compulsion of law.

The Government indicated in previous reports that voluntary termination of employment by giving notice had in actual practice never been restricted. The Committee expresses the hope that the necessary measures will be adopted to bring the Essential Services (Maintenance) Act, No. LIII of 1952, and the Essential Services (Second) Ordinance, No. XLI of 1958, into conformity with the Convention, and that the Government will indicate the action taken or contemplated.

2. Children in bondage

In previous comments the Committee referred to information brought before the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities at its Fourteenth Session, 1989, alleging that children of underprivileged classes were exploited, inter alia, as domestic workers in private houses, biri and tobacco factories and that the protective legislative and constitutional provisions were not implemented.

The Committee notes the Government's statement to the Conference Committee in 1990 that the Government had engaged in a massive task of nation building, including the improvement of the quality of life of underprivileged children. Thus a Trust, the "Pathakali Trust", a linking mechanism between Government and non-governmental private endeavours for the welfare of underprivileged children, had been established to provide opportunities for such children to receive shelter, education and health care and to acquire technical skills and employment on becoming adults. Around 130 local and international non-governmental organizations were providing assistance to children. The Government had introduced compulsory, universal free primary education and education up to grade 8 for rural girls, despite financial constraints. A major poverty alleviation programme for the landless poor had been initiated, providing underprivileged children and their parents with stable homes, thus improving their quality of life. The Government stated that measures helpful to the underprivileged children in the country should be accorded highest priority.

The Committee also notes that government, employers' and workers' representatives from Bangladesh participated in the Asian Regional Seminar on Children in Bondage (Pakistan, 23-26 November 1992). The participants in the seminar formulated and adopted a Programme of Action against Child Bondage. According to the programme the struggle against child bondage requires a firm political commitment - a clear and unambiguous declaration against bondage - a comprehensive national policy and programme of action covering legislative reforms, effective

enforcement and a system of compulsory and free education, sustained by community mobilization and information campaigns.

The Committee hopes that the Government will provide information on the results achieved through the different initiatives mentioned by the Government; and on measures taken or envisaged, following the Regional Seminar, as concerns the situation of children in bondage, such as for instance, children working "unseen" as domestic servants. Referring also to Article 25 of the Convention, under which measures must be taken to ensure that penalties imposed by law are really adequate and strictly enforced, the Committee hopes that the Government will provide detailed information on inspections carried out, on proceedings brought and convictions made and on penalties imposed on the child labour exploiters.

Brazil (ratification: 1957)

The Committee has referred to the comments made by the Latin American Central of Workers (CLAT), the International Confederation of Free Trade Unions (ICFTU), the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW) and the Association of Labour Inspectors (AGITRA) of Brazil, alleging that, in various sectors of the rural economy and in mining thousands of workers, including minors, are subjected to forced labour and debt bondage, that hiring is conducted on the basis of false promises and that violence is used to retain or punish workers who attempt to escape.

The Committee notes that, by a communication of 10 February 1993, the Latin American Central of Workers (CLAT), referring to article 24 of the ILO Constitution, made a representation alleging non-observance by Brazil of Conventions Nos. 29 and 105. The Committee notes that at its 258th Session (November 1993) the Governing Body decided that the representation was receivable and set up a committee of the Governing Body to examine it. Consequently, the Committee is suspending examination of this matter, pending the conclusions of the above committee.

Burundi (ratification: 1963)

With reference to its previous comments, the Committee notes the information supplied by the Government in June 1993 to the effect that the process of adapting and harmonizing the legislation with the Convention is continuing; a technical file, of which the Government provided a copy, was forwarded on this subject in March 1993 by the Minister of Labour to the Minister of the Interior. The Committee notes that, according to this file, draft texts to repeal the legal provisions in question have already been prepared.

The Committee also notes the provisions of Legislative Decree No. 1/037 of 7 July 1993 to revise the Labour Code.

The Committee hopes that the Government will supply information on the measures which have been taken on the following points:

1. In its previous comments concerning Ordinances Nos. 710/275 and 710/276, establishing obligations respecting the conservation and

utilization of the land and the obligation to create and maintain minimum areas of food crops, the Committee emphasized the need to set out in the law the voluntary nature of agricultural work.

The Committee notes the Government's statement in the above note that measures to repeal these Ordinances should be envisaged in the very short term. The Committee requests the Government to supply the texts to repeal the above Ordinances, once they have been adopted.

2. The Committee referred to certain texts relating to compulsory cultivation, portage and public works (Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953, Decree of 10 May 1957) and recommended that they be formally repealed.

The Committee noted the Government's statement that explicit measures to repeal the above texts are justified, principally due to their colonial nature and the fact that they have fallen into abeyance, and that measures have been undertaken with a view to repealing them.

The Committee notes that the file supplied by the Government confirms this intention. The Committee requests the Government to supply a copy of the texts which are adopted for this purpose.

3. The Committee noted that Legislative Decree No. 1/16 of 29 May 1979 establishes the obligation, under penalty of sanctions, to perform community development work.

The Committee notes that the above file recommends that the text in question be repealed and be replaced by the relevant provisions of Legislative Decree No. 1/11 of 8 April 1989 to reorganize communal administration. The Committee requests the Government to supply information on the provisions adopted in this respect.

4. With reference to sections 340 and 341 of the Penal Code, which establish sanctions for vagrancy and begging, and to its previous comments, the Committee notes that an opinion has been requested from the Ministry of the Interior on this subject. The Committee requests the Government to supply information concerning this opinion and on the programme of vocational rehabilitation which the Government considers should serve to avoid vagrancy and begging by assisting persons without employment. The Committee notes Ordinances Nos. 660/161 of 1991, 660/351/91 and 660/086/92, the texts of which were supplied by the Government.

5. The Committee is once again addressing a request directly to the Government concerning certain texts respecting the conditions governing the retirement of certain categories of persons in the service of the State and on section 2 of the new Labour Code.

Cameroon (ratification: 1960)

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

1. In its previous comments the Committee noted that the provisions of Act No. 73-4 of 9 July 1973 setting up the National Civic Service for Participation in Development were contrary to the Convention because they provided that work in the general interest throughout the public and private sectors could be imposed on citizens

between 16 and 55 years of age for a period of 24 months, subject to imprisonment for two to three years in the event of refusal.

The Committee noted that, in 1990, the Government representative to the Conference Committee stated that the Government had prepared a draft Act to bring the law into harmony with the practice of recruiting to the Civic Service on a voluntary basis. The Committee requested the Government to provide a copy of the provisions repealing or amending this Act.

The Committee again expresses the hope that the Government will indicate progress made and communicate a copy of the provisions amending or repealing Act No. 73-4 of 1973.

2. In its previous comments the Committee referred to section 2, paragraph 5(e), of the Labour Code and it stressed the need to restrict, in accordance with Article 2, paragraph 2(e) of the Convention, the scope of communal work that could be exacted. In its latest comment the Committee noted that in the new Labour Code in preparation, the expression "communal work in the general interest" would be replaced by the expression "work in the general interest". The Committee requested the Government to reconsider the laws and the draft Labour Code in the light of the provisions of the Convention and of the explanations given in paragraph 37 of its 1979 General Survey on the Abolition of Forced Labour.

The Committee notes that under section 2, paragraph 5(b), of the new Labour Code, promulgated by Law No. 92/007 of 14 August 1992, the term forced or compulsory labour does not include "any work or service of general interest which forms part of the civic obligations of the citizens, as defined in laws and regulations".

The Committee requests the Government to provide copies of the provisions defining the civic obligations of the citizens and to indicate measures taken or envisaged to ensure the observance of the Convention.

3. In previous comments, the Committee noted that the provisions of Decree No. 73-774 of 11 December 1973 laying down penitentiary regulations permitted prison labour to be hired to private undertakings and individuals. It expressed the hope that the penitentiary legislation would be brought into conformity with Article 2, paragraph 2(c), of the Convention, which makes it unlawful for prison labour to be placed at the disposal of private individuals, companies or associations. The Committee noted the Government's statement in its report for the period ending 30 June 1992, that no new provisions had been laid down. The Committee expresses again the hope that the Government will soon be able to report tangible progress achieved in the light of the more detailed explanations given in a request which it is addressing directly to the Government.

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

Central African Republic (ratification: 1960)

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

1. In its comments, the Committee has been referring for many years to the Government's statement that draft ordinances have been drawn up with a view to repealing Ordinance No. 66/004 of 8 January 1966, respecting the suppression of idleness (as amended by Ordinance No. 72/083 of 18 October 1972), section 11 of Ordinance No. 66/038 of 3 June 1966, respecting the supervision of the active population, and sections 2 and 6 of Ordinance No. 75/005 of 5 January 1975, making the performance of commercial, agricultural and pastoral activities compulsory. The Government indicated that the Ordinances in question have fallen into abeyance and are no longer applicable, and that the draft texts to repeal them formally had to be submitted to an expanded committee of the social partners. The Government also stated that it was aware of the need to bring its legislation and practice into conformity with international labour Conventions.

The Committee noted the information supplied by the Government in its report for the period up to June 1992 to the effect that Ordinance No. 66/004 of 8 January 1966, respecting the suppression of idleness, was to be repealed by a Bill which had been elaborated and that an expanded committee did in fact exist and was called the Legislative Commission.

The Committee took note of this information. In view of the fact that the Government had been referring to texts to repeal the above Ordinances for many years, the Committee again expresses the hope that the Government will supply the text of the Bill to repeal Ordinance No. 66/004 of 8 January 1966, respecting the suppression of idleness when adopted and that it will supply information on the other amendments which are necessary to give effect to the Convention on these points.

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

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

The Committee noted that the Government's report did not contain information in this respect.

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

Chad (ratification: 1960)

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

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

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

The Committee noted the Government's statement in its report for the period ending 30 June 1991 that section 260 bis of the General Code of Direct Taxes was to be repealed by the Finance Act of 1992. It requested the Government to provide a copy of the Finance Act as adopted. The Committee also noted the Government's indications that, with regard to the other texts referred to above, it had been decided that the various ministerial departments were to be responsible for repealing or amending the texts falling within their competence.

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

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

Côte d'Ivoire (ratification: 1960)

In its previous comments, the Committee referred to section 24, 77 and 82 of Decree No. 69-189 of 14 May 1969 (issued under sections 680 and 683 of the Code of Criminal procedure) under which prison labour may be hired out to private persons.

In response to the Government's reference to the system of "semi-freedom", this Committee noted that this system is governed by sections 25, 83 and 87 of Decree No. 69-189 and allows prisoners to work for private enterprises under the terms of employment contracts which have been freely concluded by them with their employer and under the normal conditions of work as regards, for example, occupational accidents. This is not the case of prisoners governed by sections 24, 77 and 82 of the Decree.

The Committee noted that the Convention, in Article 2, paragraph 2(c), expressly prohibits persons, from whom work is exacted as a

consequence of a conviction in a court of law, from being placed at the disposal of private individuals, companies or associations. Only work performed under the conditions of a free employment relationship can be held to be compatible with this prohibition; this necessarily requires the formal consent of the person concerned and, in the light of the circumstances in which this consent is given, guarantees and safeguards in respect to wages and social security which make it possible to consider that it is a real free employment relationship.

The Committee notes from the information in the Government's report that the Minister of Justice plans to submit to the Council of Ministers draft amendments to the provisions of the above-mentioned Decree respecting prison labour which will bring them into closer conformity with the Convention. It hopes that the Government will provide information on the provisions adopted to bring the legislation into conformity with the Convention.

Cuba (ratification: 1953)

The Committee notes the Government's report and the discussion that took place at the Conference Committee.

The Committee notes with satisfaction that Resolution No. 590 of 11 December 1980, which provided for inclusion in workers' labour records of their accumulated merits awarded, amongst other things, for two categories of voluntary work, namely participation in permanent activities and in voluntary labour organized by the trade union, has been repealed by Resolution No. 1 of 5 January 1993 provided by the Government with its report in October 1993.

The Committee asks the Government to provide information on the application in practice of article 3 of resolution No. 1 of 5 January 1993 according to which the procedure to be followed for the recognition of the workers' merits will be continued by the trade union movement through its own methods of work in conformity with its statutes and regulations.

France (ratification: 1937)

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

Article 2, paragraph 2(c), of the Convention. In its previous comments, the Committee referred to section 720 of the Code of Criminal Procedure, as amended in 1987, under which all necessary arrangements are made in prison establishments to ensure that prisoners who so wish may engage in occupational activity. The Committee also noted that the employment relationships of prisoners are not covered by employment contracts (section 720, paragraph 3), except in the case of prisoners on semi-release, but that the work is generally remunerated. Referring more particularly to the work performed by prisoners for enterprises using prison labour, the Committee none the less noted that the average hourly rate of remuneration

was less than half the minimum wage (SMIC) and that substantial deductions were made. The Committee asked the Government to indicate the measures taken or under consideration to ensure that the remuneration paid by hiring enterprises is of a comparable level to that paid to free workers and to state who is responsible for the payment of the employers' share of social contributions in the case of hired workers.

1. The Committee noted the detailed information supplied by the Government in its report for the period ending 30 June 1991, particularly concerning the different categories of activity (general service, Prisons' Industrial Board (RIEP), concession, vocational training and other), the distribution of jobs, developments in the methods and objectives of prison labour and the total wages of each category.

With regard to the remuneration paid to prisoners, the Government stated that the principle whereby the remuneration of detainees was negotiated at the same level as that of free workers still applied, but that there were still difficulties arising from the quality of work performed in detention, the low skill levels of prison detainees and their lack of vocational training, and the organization of prison labour which precluded achievement of productivity level comparable to that of outside enterprises (short working days, frequent interruptions). The Government also indicated that owing to the economic situation outside prison, immediate alignment with wages paid outside would be unrealistic.

The Committee noted however the Government's indications that the prison administration was aware of the overall inadequacy of the level of individual remuneration and is endeavouring to produce a policy to improve it. Since most work is paid at piece-rates, in negotiations with enterprises using prison labour the average productivity in the sector concerned outside the prison was used as the basis for calculation. Thus, a prisoner who attained the outside level of productivity would be paid at least the minimum wage, with upwards or downwards adjustment for any differential. The Government added that, for all prisoners, the employer's share of social contributions was paid by the employer and that for prisoners exercising an activity outside the establishment, ordinary labour law applied (work contract, automatic alignment with working conditions outside, including in respect of remuneration).

2. The Committee also noted the Government's indications concerning the construction of new prison accommodation for 13,000 inmates. It was managed partly by private enterprises, which are responsible for the "labour function". Minimum rates of remuneration had been fixed and these establishments had a "minimum prison wage" which was adjusted annually in keeping with the SMIC (60 per cent of the hourly SMIC rate). The Government pointed out that the methods of organizing prison labour had been reviewed and now included the keeping of files on the activities to be performed, jobs to be filled and the level of remuneration. It added that the prison working day was organized with a view to obtaining better returns on the investments (two

five-hour shifts so that machines can be used for ten hours instead of the six hours under the former system); this should also enable the prisoners concerned to have access to other activities in the establishment (e.g. sports, education, social and cultural activities).

The Committee recalls again that Article 2, paragraph 2(c), of the Convention expressly prohibits persons from whom work is exacted as a consequence of a conviction in a court of law from being placed at the disposal of private individuals, companies or associations. Only work carried out in conditions of a free employment relationship can be held not to be incompatible with this prohibition; this requires not only the formal consent of the prisoner, but also, in the light of the circumstances of this consent, guarantees and safeguards in respect of wages and social security that are such to justify the labour relationship being regarded as a free one.

The Committee asks the Government to provide detailed information on any developments and progress in this respect.

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

Gabon (ratification: 1960)

The Committee notes that the Government's report has not been received. The Committee notes the observations dated 21 September 1993 made by the Trade Union Confederation of Gabon (CO.SY.GA.).

Article 2, paragraph 2(c), of the Convention. In its previous comments, the Committee noted that prison labour is compulsory for all convicts, under penalty of sanctions, under section 3 of Act No. 22/84 of 29 December 1984 to organize prison labour. Under section 4, this labour includes both inside and outside work and the hiring of prisoners to private individuals or associations is allowed for outside work, provided that prison labour does not compete with free labour. The Committee drew the Government's attention to the fact that that Article 2, paragraph 2(c), of the Convention prohibits convicts from being placed at the disposal of individuals, companies or associations.

The Committee also noted the comments of the Confederation of Free Trade Unions of Gabon (CGSL) alleging that detainees awaiting trial, for the most part clandestine immigrants, are subjected to occasional forced labour. The Committee noted the Government's statement that what the CGSL alleged was neither current practice nor occasional practice. According to the Government, certain prisoners, to earn savings, voluntarily accept small jobs in their trade (masonry, carpentry, etc.) for private individuals who request such work and pay them for it. The Government also indicated that the same principle of remuneration applies in cases of imprisonment for debt, which are rare and are defined in the Penal Code and the Code of Civil Procedure; in such cases the persons concerned have already been sentenced and are therefore no longer awaiting trial; this remuneration enables prisoners to repay their debts more easily. The Government also referred to the prohibition on forced labour contained

in the Labour Code which is currently in force and in the draft new Labour Code.

With reference to paragraphs 89-96 of its 1979 General Survey on the Abolition of Forced Labour, the Committee recalled that prison labour falls outside the scope of the Convention only if it is imposed as a consequence of a conviction pronounced in a court of law; persons who are in detention but who have not been convicted must not be obliged to perform labour. In the case of prisoners who have been sentenced, only work carried out in conditions of a free employment relationship can be held not to be incompatible with the prohibition set out in Article 2, paragraph 2(c), of the Convention, which necessarily requires the formal consent of the person concerned and, in the light of the circumstances of that consent, guarantees and safeguards in respect of wages and social security that are such as to justify the labour relationship being regarded as a free one.

The Committee notes that in its communication the CO.SY.GA states that the safeguard of obtaining the formal consent of the persons concerned remains to be proven.

The Committee requests the Government to indicate the measures which have been taken or are envisaged to guarantee that the formal consent of the person concerned is obtained for any work which is performed for private individuals or associations and to provide information on remuneration and social protection. The Committee also notes the Office's comments concerning the provisions relating to the prohibition of forced labour contained in the draft new Labour Code and hopes that the provisions which are adopted will be in accordance with the Convention on this point.

Germany (ratification: 1956)

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

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

The Government stated previously its intention to fully implement the principles contained in the 1976 Act (inclusion of prisoners in the health and pension insurances schemes; consent of the prisoner to be employed in workshops run by a private enterprise). It also stated

that a Bill to increase the remuneration of prisoners to 6 per cent of the average remuneration of wage-earners and salaried employees had been submitted to the Parliament. In its report for the period ending 30 June 1991, the Government noted however that this Bill, which was introduced in Parliament during its 11th period, had not been definitively examined and was not submitted to Parliament during its 12th period. The finances of the federal States are currently in a situation in which a new initiative by the federal Government would have little chance of success. This also applies to the coverage of prisoners under the sickness and old-age insurance schemes.

The Committee also noted the Government's statement that it envisaged a solution in the long-term which would take greater account of the obligations deriving from Article 2, paragraph 2(c), of the Convention.

The Committee notes the information supplied by the Government in its latest report, and particularly its renewed statement that it is continuing to endeavour to take greater account of the provisions of the Convention. The Government refers in this connection to the formulation of draft legislation to regulate for the first time in an overall and in-depth manner the execution of sentences by young offenders, which provides in section 42(2) for the formal consent of young prisoners to being employed in workshops run by private enterprises. The Government states that this draft, which has already been examined by the various departments concerned, should be submitted to the legislative bodies, subject to its approval by the Council of Ministers.

The Committee notes this information with interest and requests the Government to supply information on any development in the situation in this respect, and particularly to supply any text adopted by the federal legislatures. The Committee hopes that the Government will also supply information on the provisions which are envisaged to provide young prisoners with the required guarantees and safeguards in respect of wages and social security.

The Committee recalls that Article 2, paragraph 2(c), of the Convention explicitly prohibits that persons from whom work is exacted as a consequence of a conviction in a court of law be placed at the disposal of private individuals, companies or associations. Only work performed in conditions of a free employment relationship can be held not to be incompatible with this prohibition; this necessarily requires the formal consent of the person concerned and, in the light of the circumstances of that consent, guarantees and safeguards in respect of wages and social security that are such as to justify the labour relationship being regarded as free one.

The Committee trusts that the necessary measures will be taken to ensure the observance of the Convention in respect of both young prisoners and all prisoners in general.

Greece (ratification: 1952)

For several years, the Committee has been drawing the Government's attention to the provisions of section 2(5) of Legislative Decree No. 17 of 1974 respecting civilian planning for a

state of emergency, under which the full or partial mobilization of civilians may be proclaimed, even in peace time, in any situation arising suddenly and resulting in a disturbance of economic and social life. All citizens may then be called upon to take part in work or to perform services under penalty of imprisonment (section 20(2) and (3), and section 35(1)); in such cases labour legislation is suspended.

The Committee drew the Government's attention to the provisions of Article 2, paragraph 2 (d), of the Convention and the explanations set out in paragraphs 63 to 66 of its General Survey of 1979 on the Abolition of Forced Labour, in which it indicates that recourse to compulsory labour under emergency powers should be limited to circumstances endangering or likely to endanger the existence or well-being of the whole or a part of the population, and that it should be clear from the legislation that the authority to exact labour may be used only within the above limits.

The Government indicated previously that Legislative Decree No. 17 of 1974 would be revised after Parliament had adopted the Bill on civil defence dealing with questions of emergency arising from physical or technological causes.

The Committee notes the information provided by the Government in its latest report to the effect that the Bill has not yet been adopted by Parliament and that to amend the Legislative Decree before adoption of the Bill would create a legal void.

The Committee hopes that the necessary provisions to ensure observance of the Convention will be adopted shortly and asks the Government to report on any progress in this respect.

Haiti (ratification: 1958)

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

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

of servitude and abuse. The practice of restavek was openly compared to slavery in Haiti.

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

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

The Committee had asked the Government to supply information on all measures taken to ensure the observance of the provisions of sections 341 to 355 of the Labour Code, including data on the action of the Social Welfare and Research Institute (IBESR), municipal authorities and the labour courts.

The Committee notes that in its report the Government (recognized as legitimate under resolution 46/7 adopted by the UN General Assembly) indicates that it is not, at present, in a position to supply to the ILO the information requested and that it undertakes to perform a full inquiry into conditions of work in general.

The Committee hopes that the Government will soon be in a position to supply the information requested.

India (ratification: 1954)

The Committee notes that no report has been received from the Government. The Committee has however taken note of the information provided by the Government to the Conference Committee in 1993 and of the discussion which took place in the Committee.

In its previous comments the Committee referred to the situation in law and in practice concerning the abolition of bonded labour.

The Committee notes the Government's statement to the Conference Committee that a high level of awareness exists about the problem of bonded labour. The will of the Government and of the people to eradicate this problem can be seen in the existence of legislative provisions banning debt bondage, effective follow-up executive action, judicial remedies, discussion in Parliament and in state legislatures, adequate publicity given by the media and the voluntary agencies active in this field.

The Committee recalls that in its previous comments it referred to identification, release and rehabilitation of bonded labourers as well as to the role of vigilance committees, enforcement of law, the

possible institution of an authority on bonded labour, and to child bondage. The Committee took into consideration the report by the National Commission on Rural Labour (1991), the report by the Commissioner on Scheduled Castes and Scheduled Tribes (1987-1989) and the Programme of Action against child bondage adopted at the Asian Regional Seminar on Children in Bondage (23-26 November 1992).

Identification

The Government referred in 1992 to circular instructions highlighting the need to undertake fresh efforts for identification, in particular through household surveys, censuses, and intensive studies in stone quarries and brick kilns.

The Committee notes the Government's statement to the Conference Committee that the recommendations of the National Commission on Rural Labour have been forwarded to the ministries and departments of the central Government for examination in consultation with state governments who were also provided with copies for examination and implementation. Progress was reviewed periodically. The Government indicated that a meeting held by the Union Minister of State for Labour with the labour secretaries from the states where the problem of bonded labour is endemic concluded that a new survey of bonded labour should be carried out in those states and that they should endeavour to complete the study by September 1993.

The Committee requests the Government to provide information on the results achieved as well as a copy of any such surveys when completed.

The Committee also notes from the report by the National Commission on Rural Labour that in the following non-agricultural occupations bonded labour elements have been noticed but have not been adequately covered by surveys and studies: stone quarries, migrant labourers, brick kilns, Joginis and Devadasis, fishermen, building and road construction labour, forest labour, bidi workers, carpet weavers, potters, weavers, head loaders, child labour in match and fireworks industries, carpet weaving etc. The Committee requests the Government to provide information on any studies or surveys made in these activities and on the number of bonded labourers identified, released and rehabilitated. It hopes that the Government will furnish a copy of any such studies or surveys.

Role of vigilance committees

The Committee noted previously that the report of the National Commission on Rural Labour indicated that most vigilance committees had not been constituted or reconstituted or had not been active as meetings were not held regularly and their functioning had not been monitored. The Committee expressed the hope that the Government would take action so as to be able to monitor the existence and functioning of vigilance committees and provide information on their work, including any initiatives taken by them or suggested to the state governments to ensure that these committees function effectively and contribute to the abolition of bonded labour.

The Committee notes that the Government has referred to the following information made available by some states:

Gujarat: (19 district level and 44 subdivisional vigilance committees constituted; a state level screening committee established for scrutinizing); Maharashtra: (out of 31 district and 106 subdivisions: 27 district-level and 19 subdivisional committees constituted); Uttar Pradesh: (out of 63 districts and 294 subdivisions: 54 district-level and 220 subdivisional committees constituted); Karnataka: (vigilance committees have been constituted in districts where there is concentration of bonded labour: 9 out of 20 districts. An information system was set up to keep a close watch on rural areas to identify bonded labour; the committees headed by district magistrates are composed, among others, of representatives of scheduled castes, scheduled tribes, social workers, non-official agencies and financial institutions); Haryana: (out of 16 districts and 39 subdivisions: 12 district-level and 35 subdivisional committees).

The Committee hopes that the Government will be in a position to provide information on the functioning of these committees and on the effective implementation of the competences entrusted to them by the Bonded Labour System (Abolition) Act, 1976, for the identification, liberation and rehabilitation of bonded labourers.

The Committee also requests the Government to provide information on the establishment of vigilance committees and their functioning in the states of Andhra Pradesh, Bihar, Madhya Pradesh, Orissa, Rajasthan and Tamil Nadu.

Rehabilitation

The Committee notes that in its statement to the Conference the Government representative referred to rehabilitation grants which are land based, non-land based and skill-craft-based. The Government indicated that the Act provided for restoration of property to bonded labourers after their release.

The Committee observes that it has referred previously to the different rehabilitation grants and their integration into other poverty alleviation programmes. The Committee noted that the National Commission on Rural Labour pointed to shortcomings, such as the considerable time-lag between liberation and rehabilitation and poor follow-up on rehabilitation leading to misery and relapse into bondage; non-integration of the rehabilitation schemes with other anti-poverty schemes; poor quality of land in the land-based scheme; no rehabilitation attempt for migrant bonded labourers either in the state in which they work nor in their state of origin, etc. The National Commission stressed the need to improve rehabilitation measures qualitatively and to rectify the shortcomings. It proposed for instance that the scheme of rehabilitation be chosen in consultation with the beneficiary and be well planned; lands be of reasonably good quality in the case of land-based schemes; the rehabilitation grant be given in full and the maximum amount be increased; the jurisdiction banks be directed to provide consumption loans, since the predominant cause for lapsing into bondage is indebtedness largely for consumption needs; legal provisions be made

for restoration of lands belonging to the bonded labourers but usurped by moneylenders and bigger landowners on account of loans given at exorbitant rates of interest.

The Committee hopes that the Government will provide information on measures taken or envisaged to improve the quality of rehabilitation, taking into consideration the proposals by the National Commission on Rural Labour.

The Committee notes the statistics provided by the Government concerning the numbers of bonded labourers identified and those rehabilitated and the targets for 1993-94. The Committee notes that in certain states large numbers of identified bonded labourers still are to be rehabilitated. Thus, in the State of Andhra Pradesh, out of 35,934 bonded labourers identified, 25,753 have been rehabilitated and 10,181 still remain to be rehabilitated but regrettably the tentative target for rehabilitation during 1993-94 is only 1,000.

The Committee hopes that the necessary measures will be taken to accelerate the identification and rehabilitation of bonded labourers. The Government may also consider channelling its rehabilitation measures through voluntary agencies having field experience and working at grass-root level.

In relation to the involvement of such voluntary agencies, the Committee notes that certain state governments have provided information to the central Government: some have indicated that the involvement proved not necessary, or was not effective; others mentioned that assistance was requested from some voluntary agencies in the identification process and that the results achieved were impressive. The Committee notes the Government's opinion that the involvement of trade unions would prove to be unworkable since most bonded labourers are found in the unorganized sector.

The Committee requests the Government to provide further information as regards the situation in those states where the involvement of voluntary agencies was found by the state governments not to be necessary or not effective. It requests the Government to provide information on the number of bonded labourers still in bondage, the number of bonded labourers identified and released and the number of those rehabilitated in these states.

Proposal for the institution of a national authority on bonded labour

In its previous comments the Committee noted that the Government did not envisage at this stage following the recommendation of the National Commission on Rural Labour to set up a national authority on bonded labour. The Committee had noted that a Bill to establish a Commission on Human Rights was being submitted to Parliament and considered that this Commission might be entrusted with questions concerning bonded labour.

The Committee notes that a National Human Rights Commission has been established in October 1993 under the Protection of Human Rights Act, 1993. Its scope of activity is however limited to violations of human rights committed by agents of the State and does not extend to violations by private individuals, companies, etc.

The Committee recalls that forced labour, and in particular, bonded labour, is, in practice, mostly exacted by private individuals, companies, etc. The Committee requests the Government to provide information on any measures envisaged to extend the competences of the Commission accordingly or to establish a National Commission on Bonded Labour.

Enforcement

The Committee noted in its previous comments from the report of the National Commission on Rural Labour that there had been very few prosecutions against persons keeping labour in bondage. The National Commission stressed that the process of identification and release and bringing of criminal proceedings should, as far as possible, be simultaneous activities, and made a certain number of proposals to improve the situation.

The Committee notes the Government's statement to the Conference Committee that criminal prosecution had to be based on due process of law and could not be done within artificial time-limits. The Committee would like to know how much time is required by due process of law under national conditions in order to file a criminal prosecution.

Noting that the Act abolishing the bonded labour system was adopted in 1976 and referring to the National Commission on Rural Labour's assessment, the Committee requests the Government to provide detailed information on the measures taken to ensure due process of law. The Committee recalls that under Article 25 of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and the Government must ensure that penalties imposed are really adequate and strictly enforced. Noting also that the penal sanctions provided by the Act of 1976 include, besides prison of up to three years, a rather meaningless fine up to 2,000 rupees, the Committee hopes that the Government will provide information on measures taken to ensure the effective punishment of offenders indicating, in particular, the number of proceedings and of convictions as well as penalties imposed since the Act of 1976 was brought into force.

Children in bondage

In its previous comments the Committee referred to allegations brought before the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities that children were in bondage in agriculture, brick kilns, stone quarries, carpet weaving, handlooms, matches and fireworks, glass bangles, diamond cutting and polishing; that child bondage and forced labour were connected with trafficking, kidnapping, repression, absence of freedom of movement, beating, sexual abuse, starvation, abnormal working hours and hazardous working conditions.

Children are required to work beyond their physical capacity, in occupations endangering their health, their safety, their physical and psychological development, for long working hours which interfere with their education, recreation and rest, mostly for less than meagre wages not commensurate with the quantum of work done; children work in

conditions of exploitation which bear no resemblance to a free employment relationship. They are exploited because they are young and helpless, they are deprived of the right to lead a normal childhood, deprived of education, deprived of a future.

The Committee noted that the Asian Regional Seminar on Children in Bondage (23-26 November 1992), in which India participated, had formulated and adopted a Programme of Action against child bondage. According to this programme, the struggle against child bondage requires a firm political commitment - a clear and unambiguous declaration against bondage - a comprehensive national policy and a programme of action covering legislative reforms, effective enforcement and a system of compulsory and free education, sustained by community mobilization and information campaigns.

The Committee notes that the legislative action plan, included in the National Policy on Child Labour adopted in 1987, aims inter alia at enforcing the legislative provisions of the Child Labour (Prohibition and Regulation) Act, 1986, the Factories Act 1948 and the Mines Act 1952; provides that the Government will bring forward legislation to delete the provision contained in the Minimum Wages Act allowing different wages to be fixed for children, adolescents and adults. The Committee hopes that the Government will provide the text of any provisions adopted to this effect. Noting also that the plan specifies that the central and state inspection machinery will be geared up, the Committee hopes that the Government will provide information on the results achieved in the detection of forced labour exploitation of children through improved labour inspection, and on the number of cases of forced labour exploitation of children noted.

Noting also the information contained in the International Programme on the Elimination of Child Labour (IPEC) Implementation Report (1992-93), that the Government is considering an amendment under which employers would have to pay the same minimum wage to a child as to an adult, the Committee requests the Government to provide information on any measures adopted to this end.

The Committee notes from the same report that there is an increased awareness among central and state governments and legislatures, as well as the media, on the issues related to child labour and that trade unions also have begun to take interest in the question. The Committee also notes the statement by the Government to the Conference Committee that in 1993 the National Child Labour Advisory Committee had identified two national projects for the complete elimination of child labour in one year. A programme of training of labour inspectors had been initiated in cooperation with IPEC which was to cover 600 inspectors. The Committee would like to know what steps have been taken towards implementation of the two national projects identified as above.

The Committee requests the Government to provide detailed information on the results achieved through the aforementioned initiatives. The Committee notes the Government's indication that for the purpose of identification and rehabilitation by the machinery set up for this purpose no distinction is made between bonded child labour and bonded adult labour. Given however the particular vulnerability of children and their specific needs, the Committee would request the

Government to provide information on any specific measures taken or envisaged for their identification, release and rehabilitation.

The Committee trusts that the Government will provide a comprehensive report on the situation of children in bondage, on goals defined and strategies adopted as well as on measures of implementation (including surveys, studies, statements, etc.). Law enforcement requires the political will of the Government to provide the necessary means for effective action. The Committee hopes that the Government will provide information on inspections carried out, and their results, on prosecutions made and penalties imposed.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Jamaica (ratification: 1962)

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

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

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

The Committee referred to paragraphs 97 to 101 of its General Survey of 1979 on the abolition of forced labour, and requested the Government to provide the special rules governing this matter and to indicate the measures taken or envisaged to ensure that prisoners are not hired to or placed at the disposal of private individuals, companies, or associations unless such employment is accepted voluntarily by the persons concerned, in which case there must be certain guarantees as regards the payment of wages, etc.

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

Kenya (ratification: 1964)

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

The Committee previously noted the Government's intention to repeal or to amend sections 13 and 17 of the Act, so as to restrict

their scope and bring them within the exception provided for in Article 2, paragraph 2(e), of the Convention, as it was recognized that in law the aforementioned sections of the Act are not in full conformity with the Convention.

The Committee notes that, in its latest report, the Government reaffirms its intention to amend the relevant sections of the Act in order to bring its various provisions into conformity with the Convention. The Committee notes from the Government's report and an annexed press clipping that it is the Government's intention to repeal the Act and replace it by an Administrative Officers Authority Act. The Committee notes that certain members of parliament have referred to "the apparent misuse of the Chief's Authority Act by local administration" and have asked that the Act be repealed without replacement.

The Committee requests the Government to provide information on the action taken for repealing the Act or, if the Act is replaced or amended, of the provisions adopted to this effect. The Committee hopes that any such provisions will be in conformity with the Convention.

The Committee previously requested the Government to provide information on the organization of and results achieved in soil conservation through the "Harambee effort".

Noting the Government's indication that it would report on results achieved, the Committee hopes that the Government will provide full information on the results of "Harambee" as well as on its organization.

Liberia

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

1. Penal sanctions for illegal exaction of forced labour.

Referring to its previous comments the Committee recalls that under Article 25 of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence with penalties which should be really adequate and strictly enforced. The Committee trusts that the necessary legislation will be enacted.

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

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

3. Enforcement of the prohibition of forced or compulsory labour. In previous observations, the Committee pointed out that, under Articles 24 and 25 of the Convention, the Government was under an obligation to ensure the strict observance of the prohibition of forced or compulsory labour. It stressed the importance, in this connection, of measures to ensure adequate labour inspection, particularly in non-concessionary agricultural undertakings and in relation to Chiefs. The Committee hopes the next report will contain further information in this respect.

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

Madagascar (ratification: 1960)

The Committee noted the statement by the Government representative to the Conference Committee in June 1992 to the effect that the Government took its obligations in respect of ratified Conventions seriously, and particularly with regard to Convention No. 29, on which a detailed report was to be sent in the very near future. The Government representative also stated that the compulsory nature of national service had been abolished. The Committee notes, however, with regret, that the Government's report has not been received once again. It is therefore bound to repeat its previous observation, which read as follows:

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

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

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

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

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

The Committee noted the Government's statement that national service was established with a view to fostering economic and social development and had helped to reduce illiteracy in certain regions, and that secondary school-leavers joined up voluntarily. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Mauritania (ratification: 1961)

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

1. Abolition of slavery. In its previous comments, the Committee referred to the situation in law and in practice with the regard to the abolition of slavery in the country. The Committee referred to the following provisions to abolish slavery or prohibit forced labour:

- a certain number of provisions adopted before independence, namely: the Decree of 1905 to abolish slavery; Act No. 46-645 of 11 April 1946 respecting the abolition of forced labour in the overseas territories; Act No. 52-1322 of 15 December 1952 to issue a Labour Code in the overseas territories;

- the Labour Code of 1963, of which section 3 prohibits forced or compulsory labour under penalty of the penal sanctions set out in section 56(a);
- the Declaration of 5 July 1980 proclaiming the abolition of slavery and Ordinance No. 81-234 of 9 November 1981 to abolish slavery. The Committee pointed out that the Ordinance does not contain provisions imposing penal sanctions for the illegal exaction of forced labour;
- Circular No. 003 of 9 January 1981, inviting judges (al-koudath) to respect the Declaration of 1980 and remain in conformity with international and national law; this Circular refers to the "need to emphasize to the judicial authorities that they must forever put aside any considerations of the 'masters to slaves' type, or vice versa, with regard to procedures" and states that "the practice of slavery is illegal and must therefore be brought to an end under all its forms";
- Circular No. 108 of 8 May 1983, which once again prohibits judges from taking decisions that are incompatible with the law and requests governors to give notification of all breaches and irregularities coming to their knowledge;
- section 13 of the Constitution of 1991, which prohibits any form of moral or physical violence.

In its previous comments, the Committee also noted certain information gathered by the ILO's direct contacts mission, which visited the country in 1992, from which it appears that slavery has not been eradicated. It also noted information that there had been no strengthening of inspection (particularly with regard to freed slaves who have remained with their masters) and that no specific body has been established to coordinate the struggle against slavery.

The Committee noted that the Government had not provided information over the past years on any action taken against persons guilty of exacting forced labour or slavery.

The Committee requested the Government to supply information on any legal actions which had been taken and any penalties imposed for the exaction of forced labour and on any other measures which had been taken or were envisaged to ensure the effective application of the legislation.

With regard to rehabilitation measures, the Committee recalled in previous comments that the Conference Committee had expressed concern at the situation of freed slaves and the measures which were necessary to prevent them from falling once again into slavery as a result of the lack of means of subsistence. In its previous comments, the Committee noted the Government's statement that it had implemented a real policy for the integration of the descendants of former slaves. The Government referred in this respect to measures to combat illiteracy and promote school attendance, access to land and integration into the political hierarchy and administration of the State. Noting the general nature of these measures, the Committee hoped that the Government would supply detailed information on the programmes and measures which were envisaged or had been implemented specifically in favour of former slaves.

The Committee notes the Government's statement in its latest report that no cases of the violation of legal texts relating to the

abolition of slavery have been brought before the judicial authorities. The Committee also notes the Government's statement that, by making available to the Committee and the direct contacts mission all the texts and measures which have been taken over past years to achieve the definitive eradication of the sequelae of slavery, the Government has shown the considerable effort undertaken in this respect in the social and cultural fields (measures to combat illiteracy among adults), in the economy (equal access to property, equality in employment and vocational training) and in politics (the promotion of the persons concerned to all levels of the political hierarchy and the administration of the State). This action, supported by information and awareness campaigns, has not only resulted in general awareness of the problem, but also in the integration of the descendants of former slaves in the various sectors of national life.

The Committee notes the discussions of the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities at its 18th Session in 1993. The Committee notes that the report of the Working Group (document E/CN.4/SUB.2/1993/30) refers to information supplied by Anti-Slavery International (ASI) based on surveys undertaken in 1992 in the country, which show that slavery and institutions and practices which are analogous to slavery, such as certain forms of serfdom, still exist throughout the country. It is alleged that Ordinance No. 81-234 has not been put into effect through concrete action such as a real information campaign and the indispensable reform of the judicial system; that many cases illustrate the continuation of the phenomenon, including cases of the kidnapping and sale of children and their exploitation; and that everyday judicial practice in the courts negates any statement that there no longer exist problems in respect of slavery since its abolition in 1981, as illustrated by certain trials concerning questions of inheritance.

The Committee hopes that the Government will create the conditions which are necessary for the real abolition of slavery and forced labour. With reference to Article 25 of the Convention, the Committee requests the Government to supply information on any legal action which has been undertaken and any sanctions which have been imposed for the exaction of forced labour. It also requests the Government to supply full and detailed information on the programmes and all the measures which have been taken or are envisaged in favour of freed slaves - some of whom are reported to be living in a situation of extreme poverty - with a view to promoting their integration and preventing them from falling back into slavery.

2. Requisitioning of labour. The Committee has noted in the comments which it has been making for many years that Ordinance No. 62-101 of 26 April 1962 and Act No. 70-029 of 23 January 1970 confer very wide powers on the authorities to requisition persons outside the cases of emergency admitted by Article 2, paragraph 2(d), of the Convention. The Committee noted in its previous comments the Government's statement that a committee which met in December 1991 examined the text in question and considered it necessary to repeal the provisions which are not in conformity with the Convention. It

also noted that the Government restated its intention to the direct contacts mission to amend the legislation in question.

The Committee notes that in its latest report the Government reiterates its position that it recognizes the need to repeal any provision which is not in conformity with the Convention, but nevertheless considers that the text in question only provides for the requisitioning of labour in exceptional situations, in accordance with the spirit of Article 2 of the Convention.

The Committee is bound to recall that Ordinance No. 62-101 of 26 April 1962 gives district officers the power to requisition persons with a view to meeting needs arising out of "circumstances". It also recalls that Act No. 70-029 of 23 January 1970 permits the requisitioning of labour by public and private agents under penalty of penal sanctions in order to fulfil their duties when "circumstances" so require, and particularly, where the case rises, to ensure the functioning of a service considered to be indispensable to satisfy an essential need of the country or the population. The Committee noted in this respect that this latter example illustrates the circumstances which the measures are intended to cover, but does not limit the general nature of the powers which may be exercised when "circumstances" so require.

The Committee therefore hopes that the Government will take the necessary measures to amend or repeal the text in question so as to limit the power to requisition labour to cases of emergency, as defined in Article 2, paragraph 2(d), and that it will supply information on the provisions adopted.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Netherlands (ratification: 1933)

In previous comments the Committee referred to section 6 of the Extraordinary (Employment Relations) Decree, 1945, under which a worker is required to obtain approval for the termination of his employment. The Committee noted that a Bill to repeal this requirement was presented to Parliament on 15 March 1990.

The Committee notes the Government's information in its latest report that the Bill is being examined by the First Chamber of Parliament. It also notes the Government's indication that if the required legislative amendment took too much time, it would consider the possibility of issuing guidelines to the regional employment offices in order to facilitate the termination of employment by workers on their own request.

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

Nicaragua (ratification: 1934)

By virtue of Article 2, paragraph 2(c), of the Convention, work may only be exacted as a consequence of a conviction in a court of law. The Committee notes with satisfaction that Decree No. 559, which

empowered the police to impose penalties involving compulsory labour, was explicitly repealed by Act No. 124 of July 1991 to reform penal procedures.

With reference to the application of this Article of the Convention, the Committee has been referring for many years to the need to delete from the Police Regulations Chapters XV and XVI of Title III and clause 22 of section 521, which have already been repealed by the 1944 Labour Code, and the need to repeal or amend sections 29, 32 to 38, 522(8), 533(3)(6)(20) and (24), 545(13) and 575 of the Police Regulations, under which sentences involving compulsory labour can be imposed by decision of police magistrates; and also the Act of 17 July 1948 on the powers of police magistrates, who are officials of the Executive, to pronounce sentences involving compulsory labour. The Committee hopes that the Government will take the necessary measures without delay to ensure that the national legislation is brought formally into conformity with the Convention and thereby remove any doubts as to the legislation which is actually enforced.

Pakistan (ratification: 1957)

The Committee notes the information provided by the Government in a report of June 1993, covering the period from 1 July 1991 to 30 June 1992.

The Committee notes that no report was received for the reporting period ending June 1993, nor an answer to the Committee's most recent comments of March 1993.

The Committee has noted the observations on the application of the Convention made by the Pakistan National Federation of Trade Unions, the All Pakistan Federation of Trade Unions and the All Pakistan Federation of United Trade Unions, in communications dated respectively 5 October, 11 October and 31 December 1993, which were transmitted for comments to the Government on 15 October 1993, 1 November 1993 and 21 January 1994 respectively. The Committee notes that the Government has not yet replied to these observations.

The Committee further notes that in an address to the United Nations Commission on Human Rights on 1 February 1994 the Prime Minister stated that her Government's first aim was to provide a life of dignity to the people; the Government sought to ensure the rights of women and their full participation in society; provide full protection to the children; safeguard the basic rights of minorities.

1. Bonded labour

In its previous comments, the Committee noted that on 11 March 1992 the Bonded Labour System (Abolition) Act, No. III of 1992 was promulgated under which the bonded labour system was abolished; every bonded labourer stands freed and discharged from any obligation to render any bonded labour. The Committee noted *inter alia* that the Act provides that no person shall make an advance (peshgi) under, or in pursuance of, the bonded labour system or compel any person to render any bonded or other form of forced labour (section 4). Provincial

Governments may entrust district magistrates with powers and duties to ensure the application of the Act. District magistrates shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of the bonded labourer so that he may not have any occasion or reason to contract any further bonded debt (sections 9 and 10). The Committee also noted that compulsion to render bonded labour or extracting bonded labour under the bonded labour system would be punishable with imprisonment from two to five years or with a fine of 50,000 rupees, or both (sections 11 and 12).

The Committee requested the Government to provide detailed information on measures taken or envisaged to apply the Act in practice.

The Committee notes the Government's indications in its report of June 1993 concerning the estimated number of bonded labourers in regard to the Committee's earlier (1992) observation which referred to allegations brought before the United Nations that 20 million persons worked as bonded labourers, 7 million of which were children. The Government considers these figures as unrealistic. The Government indicates that according to the Federal Bureau of Statistics and the Ministry of Finance, the total labour force is 33.82 million; employed persons number 32.76 million of which 16.76 are agricultural workers and 11.99 industrial labour. The Government adds that if the above-mentioned figures were taken for granted then about 60 per cent of the employed force would work in bondage, or, if these figures were added to the number of employed persons, then the total labour force would be 53 million i.e. about 45 per cent of the total population. In relation to children, the Government states that the figure may not even be that of the total working children.

The Committee notes that in its observations the All Pakistan Federation of Trade Unions also considers that the figures quoted in the allegations are not reflecting reality and that there are some incidents of bonded labour in less developed areas where low paid workers live under the yoke of feudalism which is a legacy of colonial heritage of the country. The Federation adds that modern media and improved communication between various parts of the country and regular elections create wide awareness for the socio-economic uplift of the low income group and for the abolition of all forms of bonded labour and child labour. However, the mere promulgation of the Act abolishing bonded labour will not solve the massive problems of the workers and the suffering of the children unless financial allocations are made for the social development of these segments of the society and vocational education and training facilities are improved. The Federation also stresses the need for the establishment of tripartite committees.

The Committee also notes the observations by the Pakistan National Federation of Trade Unions pointing to the necessity for the Government to take action for the strict enforcement of the Bonded Labour System (Abolition) Act, 1992.

The Committee further notes the observations by the All Pakistan Federation of United Trade Unions which refers to the movement launched in collaboration with the Brick Kiln Labour Unions against forced labour exacted from men, women and children in the brick kiln

industry. The Federation alleges that the practice of advance payment continues in the brick kilns despite its prohibition by the 1992 Bonded Labour System (Abolition) Act. It also refers to section 15 of the Act concerning the setting-up of vigilance committees and their composition consisting of "elected representatives of the area, representatives of the district administration, Bar association, Press, recognized social services and labour departments of the federal and provincial Governments." The Federation expresses concern that social and political circles which, it alleges, have a strong hold over the administrative machinery, will resist the elimination of the bonded labour system. The Federation therefore demands that Trade unions be represented in the vigilance committees.

The Committee notes the Federation's allegations that the system of Jammada/jammadarni (supervisory system, middleman between labour and employers) in the brick kilns, which is to stand abolished by virtue of the 1992 Act, continues. The Federation also alleges that the brick kiln labourers receive payments which are under the prescribed minimum wages; the Committee refers in this respect to its observation on the application of the Labour Inspection Convention (No. 81).

The Committee has also noted that the Pakistan Human Rights Commission has recommended in January 1994 to strictly enforce the law abolishing bonded labour, both in industry and agriculture.

Noting that more than two years have elapsed since the promulgation of the Bonded Labour System (Abolition) Act, in March 1992, the Committee expresses the firm hope that the necessary measures will be taken for the effective liberation of all bonded labourers. The Government is again requested to provide detailed information on measures taken to enforce the Bonded Labour System (Abolition) Act, and in particular on the following: the number of bonded labourers freed since the promulgation of the Act; the number of indictments and convictions of bonded labour keepers, and the sanctions applied; the measures taken by district magistrates to promote the welfare of the freed bonded labourers; the number of vigilance committees established, their composition and the work accomplished by these committees. The Committee recalls in this connection that the functions of the vigilance committees are to advise the district administration on matters relating to the effective implementation of the law; help in the rehabilitation of the freed bonded labourers; keep an eye on the working of the law; provide the bonded labourers such assistance as may be necessary to achieve the objectives of the law.

The Committee requests the Government to provide full information in reply to the allegations of the Pakistan Federation of United Trade Unions.

2. Children in bondage

In its previous comments the Committee had noted that the participants in the Asian Regional Seminar on Children in Bondage, held in Pakistan from 23 to 26 November 1992, formulated and adopted a Programme of Action against Child Bondage. According to the programme the struggle against child bondage requires a firm political

commitment, a comprehensive national policy and programme of action covering legislative reforms, effective enforcement and a system of compulsory and free education, sustained by community mobilization and information campaigns. The Committee requested the Government to provide detailed information on measures taken or envisaged to abolish bonded child labour and for the effective enforcement of the Bonded Labour System (Abolition) Act, 1992, in relation to bonded children.

The Committee notes that the Pakistan National Programme of Action for the goals for children and development in the 1990s (NPA) states that "efforts will be made to significantly reduce child labour" ... which "in its different forms endangers the children's health and lessens their chances of receiving basic education and enjoying recreation which are vitally important for their growth and development. It also contributes to unemployment and lower wages among adults, which perpetuates poverty and child labour ... It is estimated that about 8 to 10 million children are working. They are generally engaged in agriculture, brick-making, carpet-weaving, assisting subcontractors of large industries, small, often hazardous, unregistered enterprises, domestic service, garbage collection and work for the informal sector and exploitative 'underworld'... There is an urgent need to initiate comprehensive programmes to retrieve children from early labour/work." The NPA "aims to virtually eliminate kidnapping and forced labour".

The Committee has also taken note of information contained in a report prepared jointly by the Government and UNICEF (Situation analysis of children and women in Pakistan) which notes that "in the urban sector a great majority of children work in the informal sector, in small-scale non-registered enterprises. At least a quarter of urban working children are under ten years old, more than half work 11 hours a day or more and almost nine of ten work more than eight hours".

The report draws attention to the work of children as domestic servants, many of whom are girls, stating that "such children are thought to be highly vulnerable to exploitation and abuse, including sexual abuse". The report also states that "there may be several thousand kidnapped children in forced labour, mainly at construction sites; tens of thousands of children work with their families in brick kilns ...".

Children are required to work beyond their physical capacity, in occupations endangering their health, their safety, their physical and psychological development, during long working hours which interfere with their education, recreation and rest, mostly for less than meagre wages not commensurate with the quantum of work done. Children work in conditions of exploitation which bear no resemblance to a free employment relationship. They are exploited because they are young and helpless, they are deprived of the right to lead a normal childhood, deprived of education, deprived of a future.

Referring to Article 25 of the Convention the Committee expresses the firm hope that the Government will ensure that penalties imposed by law for the illegal exaction of forced or compulsory labour are really adequate and are strictly enforced and that the Government will supply full details on the measures taken to ascertain that the Convention is applied in practice. In this connection the Committee again requests the Government to provide detailed information on the

measures taken or envisaged for the effective enforcement of the Bonded Labour System (Abolition) Act, 1992, as concerns children.

3. Restrictions on termination of employment

The Committee has been commenting for a considerable number of years on the provisions of the Pakistan Essential Services (Maintenance) Act, 1952, rendering punishable with imprisonment of up to one year a person in employment of whatever nature under the central Government who terminates his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination with notice. These provisions may be extended to other classes of employment (sections 2, 3(1)(b) and explanation 2, section 7(1); section 3). Similar provisions are contained in the West Pakistan Essential Services (Maintenance) Act, 1958.

The Government has previously indicated its intention to amend the provisions of the Pakistan Essential Services (Maintenance) Act so that an employee may terminate his employment in accordance with the express or implied term of his contract.

The Committee notes that in its report the Government refers to Article 2, paragraph 2(a), of the Convention and states that military service is excluded from the scope of the Convention and that there is no need to amend the above-mentioned Acts.

The Committee notes that the provisions of the Pakistan Essential Services (Maintenance) Act, 1952, and of the West Pakistan Essential Services (Maintenance) Act, 1958, apply to persons in employment of whatever nature under the Central Government and are not limited in scope to "military service". Moreover, as regards military service it should be recalled that the provisions of the Convention relating to compulsory military service do not apply to career servicemen. As the Committee has pointed out in paragraphs 33 and 67 to 73 of its 1979 General Survey on forced or compulsory labour, the fact that compulsory military service is not covered by the Convention cannot be invoked to justify denying career servicemen the right to leave the service either at specified intervals or by giving notice of reasonable length.

The Committee notes the observations by the Pakistan National Federation of Trade Unions according to which there is a consistent and strong demand from workers' organizations of the country for the repeal of these laws. The Federation notes that these laws are imposed in normal times in a perpetual manner for indefinite periods, to the disadvantage of the concerned employed persons. The Federation indicates that these laws should only be applicable in the event of an emergency, like war, civil commotion, peril at sea, earthquake, for a period of six months, with possible extension depending on the gravity of the event.

The Committee also notes that in its observations the All Pakistan Federation of Trade Unions urges the Government to repeal these Acts; the workers should have the freedom to resign.

The Committee requests the Government to provide information in response to the observations by the Workers' organizations as well as on measures taken to bring the Pakistan Essential Services

(Maintenance) Act, 1952, and the West Pakistan Essential Services (Maintenance) Act, 1958 into conformity with the Convention. The Committee expresses the firm hope that the necessary measures to this effect will soon be adopted.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Paraguay (ratification: 1967)

Article 2, paragraph 2(c), of the Convention. The Committee has been referring for 20 years to section 39 of Act No. 210 of 1970 respecting the prison system, which is contrary to this provision of the Convention since it states that "work shall be compulsory for detainees", and section 10 of the Act, which defines as detainees not only convicted persons but also those subjected to security measures in a prison establishment.

Since 1977, the Government has been referring to a Bill to amend section 39 of Act No. 210 and in its last report states that the Bill has still not been adopted.

The Committee once again recalls that the Convention lays down that work can only be exacted from prisoners as a consequence of a conviction in a court of law; persons who are in detention and are awaiting trial or persons detained without trial may work at their own request, on a purely voluntary basis (paragraph 90 of the General Survey on the Abolition of Forced Labour).

The Committee hopes that the Government will take the necessary measures without delay to ensure that the Convention is respected on this point, on which it has been commenting for many years.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Peru (ratification: 1960)

The Committee notes the detailed information supplied by the Government and the discussion that took place at the Conference Committee in 1993 on the problems concerning the observance of the Convention encountered by the indigenous communities in Atalaya and the workers in the Madre de Dios gold mines and washeries.

1. Indigenous communities in Atalaya.

In its previous observation the Committee asked the Government to take the necessary measures to eradicate the practices of debt bondage, deceitful or violent recruitment of labour, subhuman conditions of work and the exploitation of children in conditions of forced labour in the indigenous communities of Atalaya, all of which were confirmed by the report of the Multisectoral Committee on the Situation of Indigenous Communities in Atalaya (set up by resolution 083-88-PCM).

The Committee noted the recommendations made in the above-mentioned report, which include the creation of a "regional work area of Atalaya" as an institution to be responsible for activities to prevent labour disputes, to protect the right of workers in that area and particularly in indigenous or native communities. The need to set

up such an institution as a dependency of the Ministry of Labour in that area was already referred to in the Report of the Special Inspection Visit to the Atalaya Area (1988) which was communicated by the Government. The Committee also notes that, in communications sent to the Ministry of Labour in 1993, by the Atalaya Regional Indigenous Organization (OIRA) and the Front for the Defence of the Interests of the Province of Atalaya, reference is made to the importance of setting up an office of the Ministry of Labour in this area to combat the injustice and exploitation to which the native communities are subjected, and an appeal was made for the prompt establishment of that office since the communities in question do not have access to the Regional Labour Directorate to defend their rights since travel is difficult and costly. Similarly, the minutes of a meeting attended by the Atalaya state authorities and various personalities and representatives of indigenous organizations state the need to set up the "area of labour and social promotion of Atalaya" and express the hope that this necessity has come to the knowledge of the higher authorities which are able to issue the necessary legislation so that it does not remain a mere project.

The Committee notes from the report sent by the Government in November 1993 that the regional work area of Atalaya has still not been established.

In its report the Government indicates that the General Directorate of Labour and Social Promotion of Ucayali organized a joint inspection operation in cooperation with the judiciary, the police, the department of the Public Prosecutor, the Ministry of Agriculture and the Prefecture. The Committee requests the Government to provide copies of inspection reports, especially particulars of the number and nature of infringements recorded and the penalties imposed.

With regard to the indigenous communities in Atalaya the Committee observes that, although some action has been taken, neither the measures recommended by the Multisectoral Committee nor those put forward in 1988 in the Report of the Special Inspection Visit which, in addition to the establishment of the regional labour area, include the establishment of a mixed court, the opening up of provincial inspection, the creation of the Council for Social Promotion and the opening of roads, have been implemented.

2. Workers in the Madre de Dios gold mines and washeries.

The Committee had requested the Government to provide the report of the Multisectoral Committee established by Ministerial Resolution No. 275-90 DCM of 26 June 1990 to investigate the situation of workers in the Madre de Dios gold washeries. With regard to these workers, the Committee noted the allegations made by the National Federation of Miners, Metal Workers and Iron and Steel Workers of Peru (FNTMMSP) concerning dishonest hiring practices known as "enganche" on the part of individuals, for the most part in Puno and Cuzco, who recruit for mining enterprises holding licences from the National Directorate of Mines. The contracts offered are usually for 90 days (hence the term "noventeros" (90-day workers) for these workers) after which the employers are supposed to cover the costs of workers' return journeys: but generally fail to do so with the result that the workers are unable to return to their place of origin. The FNTMMSP also alleges that, as regards working conditions, wages are too low, working hours

too long and medical care non-existent, despite the high risk of contracting diseases such as malaria, tuberculosis, rabies and uta (a skin disease).

The Committee notes the information contained in the report "Minors working in the Madre de Dios washeries" drawn up by the coordinating committee of the rights of the child, Inca region, which was submitted to the Conference Committee in June 1993 by a Worker member, concerning the subhuman working conditions of many minors working in the washeries. According to this report, it was revealed in the national news that there were common graves in certain of the areas where the gold washeries are located and many of the corpses found were of children, adolescents and young people who had died of diseases and work accidents (rabies, tetanus, various infections, falls) and contusions inflicted by the mine bosses themselves as part of their abusive treatment and practices of slavery. The report also mentions that the children may have been killed while attempting to escape or because they protested about their working conditions.

The Committee notes with interest the Government's indication that, as a result of the operation carried out on 1 October 1993 in the area known as Boca Colorado (Madre de Dios) by the Ministry of Labour with the participation of representatives of the judiciary, seven young people were rescued who were being exploited as slaves in one of the washeries, and that in official communication No. 016-93-RR.PP of 4 October 1993 the Ministry of Labour and Social Welfare determined that the Public Prosecutor should bring criminal action against those found to be responsible for having forced minors to work in such conditions and that the work centres that have operated unlawfully should be closed down. The testimony of the young people who were freed confirmed that dishonest means of recruitment are used by "enganchadores" who then "sell" the young people to the owners of the washeries and that the workers are overseen and supervised by armed men.

The Committee notes the various measures that have been taken regarding the situation of these workers: clandestine recruitment agencies have been closed down and fined; campaigns have been organized to inform workers so that they are not deceived by "enganchadores"; and the regional area for labour and social welfare of Huaypetue has been set up so that workers in the Huaypetue and Colorado areas can now have recourse to this jurisdiction rather than having to travel by river for two or three days to Madre de Dios.

The Committee also notes the Government's indication that it has been decided to frame a directive on the requirements for bringing in workers to the Madre de Dios area and on the prohibitions for the work of minors, the text of which is to be distributed to all officers of the national police. The Committee requests the Government to provide a copy of that directive.

The Committee observes that, although certain measures have been taken to eradicate the situations referred to above from the indigenous communities of Atalaya and the gold mines and washeries of Madre de Dios, there are, none the less, problems which still call for energetic and sustained action on the part of the authorities. The Committee trusts that the Government will take the necessary measures to end the practices whereby many workers, including minors, are

subjected to forced labour. In this connection, it appears particularly necessary to give effect to Article 25 of the Convention under which the illegal exaction of forced labour shall be punishable as a penal offence and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee requests the Government to report on the progress and outcome of the action brought by the Public Prosecutor in the cases of forced labour noted in the Boca Colorado area (Madre de Dios).

Romania (ratification: 1957)

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

The Committee note with interest that Act No. 36 of 30 April 1991 respecting agricultural societies and other types of associations in the agricultural sector repeals Decree No. 93 of 28 March 1983 approving the statutes of socialist organizations in the agricultural sector, section 15(3) of which required the withdrawal of a member of a cooperative to be approved by the General Assembly, and on which the Committee commented previously.

In a request addressed directly to the Government the Committee raises a number of other points concerning the application of the Convention.

Russian Federation (ratification: 1956)

With reference to its previous comments the Committee notes with satisfaction that section 209 of the Penal Code, concerning persons "leading a parasitic way of life", was repealed by Act No. 1867 of 5 December 1991.

Saudi Arabia (ratification: 1978)

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

The Committee also notes the comments made on 17 March 1993 by the International Confederation of Arab Trade Unions concerning the application of the Convention, and the Government's reply to these comments dated 13 October 1993.

The Committee is addressing a request directly to the Government concerning the allegations made by the Trade Union Confederation concerning the recruitment and sponsorship of foreign workers.

Sierra Leone (ratification: 1961)

In comments made for a number of years, the Committee has asked the Government to repeal or amend section 8(h) of the Chiefdom Councils Act (Cap. 61) under which compulsory cultivation may be

imposed on natives. The Committee previously noted the Government's statement that section 8(h) of the Chiefdom Councils Act is not in conformity with article 9 of the Constitution and would be held unenforceable. The Committee also noted the Government's indication that section 8(h) was not applied in practice and that information on any amendment of this section would be provided.

The Committee notes that in its latest report the Government merely repeats this statement.

The Committee trusts that measures will soon be adopted to bring section 8(h) of the Act into conformity with the Convention and the indicated practice, and that the Government will provide information on the action taken.

Singapore (ratification: 1965)

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

The Committee noted the detailed explanations supplied by the Government in its report for the period ending 30 June 1991 in response to the Committee's previous comments. The Committee had noted that the Destitute Persons Act, 1989, repeated without change some provisions of sections on which it had been commenting for several years. Under sections 3 and 16 of the new Act, any indigent person may be required, subject to penal sanctions, to reside in a Welfare Home, and under section 13 of the same Act any person resident in such a Home may be required to engage in any suitable work.

The Committee noted in this connection that, according to the Government, Welfare Homes were meant for the rehabilitation of destitute persons who could not fend for themselves, and that they were not penal institutions. The Government stated that it was not mandatory for residents in such Homes to work. Moreover, work in such Homes was intended either to prepare the person concerned for employment, in which case the salary and working conditions prevailing in the market applied to work done outside the Home, or as a contribution, for a few hours a day, to maintenance in the Home.

The Government explained that the Destitute Persons Act was designed to provide shelter for homeless persons and those without means of subsistence. In August 1991 three Welfare Homes were housing 1,431 residents, 433 of whom were participating in the Home Employment Programme and 221 in the Day Release Programme.

While appreciative of the Government's efforts to assist the persons concerned, the Committee noted that the terms of the Act were highly coercive; it pointed out that compliance with the Convention required that the admittance of destitute persons to a Welfare Home and their stay therein should be subject to their consent and that any work in such Homes should be done voluntarily both de jure and de facto.

The Committee again expresses the hope that the necessary measures will be taken to bring the law into conformity with the

Convention; it asks the Government to continue supplying detailed information on the practical application of the provisions concerning Welfare Homes.

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

Sri Lanka (ratification: 1950)

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

The Committee noted the information provided by the Government in its report for the period ending 30 June 1991. The Committee also noted the comments by Jathika Sevaka Sangamaya (National Employees Union) on the application of the Convention.

1. Article 25 of the Convention. In previous comments the Committee referred to allegations of child labour exploitation in domestic service, shops, private coaches, tourist industry and fishing camps (Wadiyas). The Committee noted that slavery was abolished in 1844, that sections 361 and 362 of the Penal Code prohibit buying or disposing of any person as a slave but that according to the Ceylon Workers' Congress no other provisions prohibited forced labour. The Committee further noted that article 27, paragraph 13, of the Constitution provides that the State shall promote with special care the interests of children and youth so as to ensure their full physical, mental, moral, religious and social development, to protect them from exploitation and discrimination and that a number of laws have been enacted to protect children. The Committee noted, however, that it was alleged that protective laws were not adequately respected and enforced and that the main reason for the abuse of child labour was the lack of deterrent punishment.

The Committee noted the Government's information in its report for the period ending 30 June 1991 and the survey on child employment in the passenger transport annexed to the report.

The Committee also took note of the documents submitted by the Sri Lankan participants in the Asian Regional Seminar on Children in Bondage (Islamabad, Pakistan, 23-26 November 1993). This seminar was organized by the ILO in collaboration with the Government of Pakistan and the UN Centre for Human Rights and was attended by participants from Bangladesh, India, Nepal, Pakistan, Sri Lanka and Thailand; it included judges, lawyers, labour officials, members of employers' and workers' organizations, and officials of national and regional non-governmental organizations concerned with bonded labour. The participants formulated and adopted a Programme of Action against Child Bondage.

In relation to the situation in Sri Lanka the documents submitted refer to instances of forced child labour to be found essentially in domestic service. It is stated that child servants are mostly brought from the rural areas to the urban households by agents. In many situations, the parents lose contact with the children who virtually become abandoned and have

no alternative but to remain with their masters. It is recorded that the Women and Children's Bureau of the Police Department has received over 1,000 complaints over the last few years of children being subjected to inhuman treatment such as being beaten or burnt by their masters, but the actual statistics would undoubtedly be higher. Such domestic servants are stated to be harassed, physically tortured and sexually abused by their masters; some are badly maimed and mentally scarred for life. Many end up in prostitution where they continue to be exploited. Although some employers are arrested and tried, they constitute a microscopic minority and the majority of employers get away as the children are either frightened or have no means of alerting the authorities. The Committee noted that the report on child labour in Sri Lanka, published by the ILO in 1993, refers to newspaper reports and cuttings which indicate that some children had been starved, some battered, burnt or tortured to death. The Committee also noted that in its comments the Jathika Sevaka Sangamaya pointed to the employment of children in domestic service and stated that the Convention was not applied satisfactorily due mainly to the shortage of labour inspectors.

The documents also refer to bonded child labour in fishing camps (wadiyas) situated in small islands off the north western and eastern coasts. These children are removed from their parents, in payment of a small sum of money, under the false promise of a brighter prospect. They are not allowed to leave the islands and become virtual slaves. The unrest prevailing in these regions seems however to have made it difficult for such camps to operate in these areas and the Government indicated in its report that child labour in fishing camps was not a frequent occurrence.

The Committee noted the above comments and documents. The Committee again expresses the hope that the Government will supply information on the application of the Convention in law and in practice with regard to the situation referred to in these comments and documents, including full particulars on the following: measures taken or envisaged as concerns adoption and enforcement of penal sanctions against exploiters of forced child labour, in particular in domestic service; inspections carried out and prosecutions engaged and any measures adopted to establish an adequate and efficient law enforcement machinery; rehabilitation measures for rescued children; any other measures for the protection of children against forced labour.

Referring also to the above-mentioned Programme of Action against Child Bondage adopted by the participants in the Islamabad Seminar, the Committee again expresses the hope that the Government will provide information on any national action programme adopted or envisaged to combat child servitude.

2. With reference to its previous comments the Committee noted that the state of emergency proclaimed on 20 June 1989 under Part II of the Public Security Ordinance (Chapter 40), 1947, had been renewed monthly since that date and remained in force. The Committee noted that under section 10 of the Emergency (Miscellaneous Provisions and Powers) Regulations,

No. 1 of 1989, also still in force, the President might order to require any person to do any work or render any service in aid, or in connection with, the national security or the maintenance of essential services. Contravention or failure to comply with the requisition order is an offence and punishable, in addition to any other penalty imposed by the court, by forfeiture of all property. The list of essential services contained in the schedule to Regulations No. 1 of 1989, such as modified subsequently, comprises inter alia services, work or labour necessary or to be done in connection with the export of commodities, garments and other export products. The Committee recalled that the Ceylon Workers' Congress in comments made on the application of the Convention had previously indicated that the President published a series of regulations empowering officials to require any person to do any work or render any personal service under the menace of penalties.

Referring to the provisions of Article 2, paragraph 2(d), of the Convention and to the explanations provided in paragraphs 63 to 66 of its 1979 General Survey on the Abolition of Forced or Compulsory Labour, the Committee recalled that recourse to compulsory labour under emergency powers is to be limited to circumstances which endanger the existence or well-being of the whole or part of the population. It should be clear from the legislation itself that the power to exact labour is limited to what is strictly required to cope with such circumstances. The Committee again requests the Government to provide information on measures taken or envisaged to this effect.

3. The Committee noted that under the provisions of section 41 of the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 1989, relating to the maintenance of and obstruction to essential services, a person who fails or refuses to attend his workplace, or to perform work to which he is directed (section 41, paragraph 1(a) to (c)) is deemed to have forthwith terminated or vacated his employment, notwithstanding anything to the contrary in any other law or terms or conditions of a contract governing his employment. The Committee again requests the Government to indicate whether the provisions of the Essential Public Services Act No. 61 of 1979 remained applicable.

4. In previous comments the Committee referred to the Compulsory Public Service Act No. 70 of 1961 imposing on graduates an obligation to perform compulsory public service for up to five years under penalty of a fine for every day's failure to discharge this duty (sections 3(1), 4(1)(c) and 4(5)). The Government indicated that the Act was not implemented in respect of medical officers and that no enforcement of the provisions of the Act had come to the Government's notice. The Committee noted the Government's information that there were no reported instances of prosecutions against any graduates under this law. The Committee again expresses the hope that the Government will indicate measures contemplated or adopted to amend or repeal the Compulsory Public Service Act.

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

Sudan (ratification: 1957)

The Committee notes the report of the Government submitted during the 1993 Conference. It also notes the information provided by the Government to the Conference Committee in 1993 and the discussion which took place in the Committee.

In previous comments the Committee took note of several documents of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities referring to allegations of slavery practices (in particular documents E/CN.4/Sub/AC2/1988/7/Add.1; E/CN.4/Sub.2/1988/32; E/CN.4/1992/55).

The Committee noted that under section 163 of the 1991 Criminal Act, "whoever commits forced labour on any person by unlawfully compelling him to work against his will shall be punished with imprisonment for a term not exceeding one year or with a fine or with both". The Committee also noted the statement of the Government representative to the Conference Committee in 1992 that all Sudanese were totally free and had equal rights and duties, that the law prohibited any form of exercise of the slave trade and that he did not feel obliged to provide any information since no allegations had ever been brought to a tribunal and that such practices did not exist in the first place.

The Committee further noted that in a document submitted to the UN Committee on the Rights of the Child, Anti-Slavery International referred to continued allegations of forced labour in relation not only to the Dinka populations but also to the Nuba and that in its report of January 1993 the Committee on the Rights of the Child had expressed its concern regarding the issues of forced labour and slavery and had requested additional information on these concerns (document CRC/C19, 2 March 1993).

The Committee requested the Government to provide detailed information on measures taken to ensure the practical application of Article 25 of the Convention.

The Committee notes the indications by the Government to the Conference Committee, as well as in its report, that the problems raised were related to conflicts of a tribal nature, such as conflicts over water sources and pasture, and had increased as a result of drought and desertification. Such conflicts were resolved through conciliation councils headed by wise men and tribal chiefs, operating according to customs and whose decisions were enforceable. The nature of the rules of customary law did not permit the establishment of precedents corresponding to those of an ordinary tribunal or court, which made it difficult to gather information. As concerned ordinary courts the Attorney General had advised that no case of this nature existed as shown from their records. A committee responsible for investigating the allegations referred to had made several visits to the region involved without noticing any evidence of the truth of the allegations.

The Committee notes that in its written reply to the preliminary observations of the Committee on the Rights of the Child the Government likewise states that "situations which are completely different from slavery have been wrongly depicted as enslavement. In reality however they involve tribal disputes and arguments over

pasture and water resources in some areas where there is an overlap between tribes. As a result each tribe involved in the dispute captures members of the tribe or tribes while waiting for the conflict to be settled according to tribal conditions and customs" (CRC/C/3/Add.20).

In its report the Government rejects all allegations of forced labour as unfounded and not corroborated by reliable sources or precise data, identity and residence of the persons concerned.

The Committee has also taken note of the Report of the Special Rapporteur on the situation of human rights in the Sudan, who visited the country in September and December 1993. (Commission on Human Rights, 50th session, 1994; document E/CN.4/1994/48 of 1 February 1994). In the report the Special Rapporteur, referring to slavery, servitude, slave trade, forced labour, and similar institutions and practices, declares that reports and eye-witness accounts reveal a great deal of consistency with regard to the circumstances of abduction, the locations of destination, the names of locations, where children and women are said to be kept in special camps, and where people from the Northern Sudan, or even from abroad, reportedly come to buy some of these people. The report refers for instance to the case of an abducted boy forced to work on a farm guarded by armed men. Sale or traffic of children seems to be an organized and politically motivated activity, of mass character, on the level of non-regular armed forces, like the Popular Defence Forces and contingents of Mujahedin in the conflict zones in southern Kordofan and Bahr Al-Ghazal. The Special Rapporteur has received persistent reports and testimonies of abductions of children such as the abduction in summer 1993 of some 217 children, mainly Dinka. The report refers to the fear of the population that these children have been sold as slaves in Darfur and northern Kordofan and states that the Government has taken no measure to investigate this case either at federal or at local level. Taking into consideration the oral and written testimonies received, the Special Rapporteur considers that the explanations of the Government are not satisfactory.

The Committee further notes the indications in the report that in September 1992 the authorities in Khartoum State launched a campaign of "cleaning" the city of vagrant children, considered as a threat to public order. It is reported that children are collected in a systematic way from all over the city and in some locations of the State, and taken to camps. While the authorities claim that children receive vocational training, the Special Rapporteur concludes that the fear is well-founded that the practice of collecting up street children is in fact mostly a case of arbitrary arrest and detention without due process of law. The treatment in the camps is very harsh. The purpose of the vocational training is in fact rigid disciplining of the children, in majority southerners, mainly from Dinka, Shilluk and Nuer tribes, or from families displaced from the Nuba mountains. Non-governmental sources told the Special Rapporteur that a large number of children were receiving military training and sent to the front.

The Committee recalls that Article 25 of the Convention requires that the illegal exaction of forced or compulsory labour be punishable as a penal offence, and moreover makes it an obligation on any Member

ratifying the Convention to ensure that penalties imposed by law are really adequate and are strictly enforced.

The Committee requests the Government to provide full information on measures taken or envisaged to ensure the practical application of Article 25 of the Convention, and on measures taken to protect the Dinka and Nuba populations against practices contrary to the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

United Republic of Tanzania (ratification: 1962)

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

For a number of years the Committee has been commenting on serious discrepancies between national law and practice and the provisions of the Convention.

The Committee referred in this connection to the following provisions:

- under article 25, paragraph (1), of the 1985 Constitution every person is obliged to voluntarily and honestly participate in lawful and productive work, to observe labour discipline and strive to achieve the individual and communal production targets required or prescribed by law; article 25, paragraph (2), provides that notwithstanding paragraph 1, there shall be no forced labour. However, article 25, paragraph (3)(d), provides that no work shall be considered as forced labour if it is relief work that is part of (ii) compulsory nation-building initiatives, in accordance with the law, (iii) national efforts in harnessing the contribution of everyone in the work of developing the society and national economy and ensuring success in development;
- the Local Government (District Authorities) Act, 1982, the Employment Ordinance, 1952, as amended, the Human Resources Deployment Act, 1983, the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Finances Act, 1982, under which compulsory labour may be imposed inter alia by administrative authority, on the basis of a general obligation to work and for purposes of economic development;
- several by-laws adopted between 1988 and 1992 under section 148 of the Local Government (District Authorities) Act, 1982 entitled "self-help and community development", "nation-building", "enforcement of human resources deployment". The Committee noted for example that under the Mwanga District Council Self-help and Community Development by-laws 1989, Government Notice No. 246 of 20 July 1990, "the Council may direct that any kind of development activities be done by all residents in the affected area within the Council or persons with special knowledge"; while no limitation is imposed on the nature of the projects, the intended beneficiaries or the duration of the participation, full-time employees of Government, Council, the Chama Cha

Mapinduzi Party, the parastatal organizations and private companies are inter alia exempted from participation. For other residents, participation is mandatory and enforceable through fines and "extortion of property".

The Committee expressed its concern at the institutionalized and systematic compulsion to work established in law at all levels, from the National Constitution through Acts of Parliament to District by-laws, in contradiction with Convention No. 29 and Article 1(b) of Convention No. 105, ratified by the United Republic of Tanzania, which prohibits the use of compulsory labour for development purposes.

In its preceding comments, the Committee noted the Government's indication that the Employment Ordinance No. 366 of 1952 was in the process of revision and that training of labour officers in international obligations had taken place.

The Committee notes the Government's indication in its report that article 25(3)(d)(ii) of the Constitution refers to compulsory national service provided for by the law, and not nation-building. The national service is a programme organized by the Government in which volunteers as well as former soldiers undergo inter alia military training and participate also in other activities, e.g. agricultural cultivation which has more or less made the army self-sufficient in food, building schools for both army personnel children and other children in the vicinity, by rendering emergency services, teaching, etc. Activities conducted within the national service are intended to benefit the national service and its participants. These activities are not forced upon people nor may they be termed as nation-building initiatives.

The Committee requests the Government to provide a copy of the provisions on compulsory national service as well as any implementing provisions specifying the programme.

As concerns legislation mentioned by the Committee, the Government states that the different acts are still under consideration. More specifically, referring to the Human Resources Deployment Act, 1983, the Government indicates that it has to be amended in accordance with the prevailing political situation in the country.

In relation to the Employment Ordinance, 1952, the Committee notes the Government's statement that a revised text was to be submitted to Parliament in October/November 1993 for final approval. As concerns the different by-laws adopted under the Local Government (District Authorities) Act, 1982, the Government considers that they are legally unenforceable with the adoption of a multi-party system as they incorporate the former sole political party CCM (Chama Cha Mapinduzi) as an exception from their scope. Amendment or repeal of the principal legislation will affect the application of subsidiary legislation. The Government reiterates its commitment to rectifying the situation and to report on any developments in the interministerial consultations that are continuing.

The Committee finally notes the Government's indication that the "Nyalali Commission" has listed 40 pieces of legislation as not conforming to the principles of human rights, including those identified by the Committee as not in conformity with the Convention, and that these provisions are under consideration. Given that the

United Republic is due to become a federal State by 1995, revision affects much of the legislation and the pace of amendments will be slower than anticipated.

The Committee requests the Government to report on any progress made and on measures taken or envisaged to repeal or amend the provisions contrary to the Convention, including on all the points raised by the Committee in its comments over the years and to which the Committee referred in detail in its 1993 observation. The Committee hopes that the Government will provide a copy of the Employment Ordinance as and when amended.

Thailand (ratification: 1969)

The Committee notes that no report has been received from the Government. The Committee has, however, noted the discussion which took place in the Conference Committee in 1992 on the application of the Convention as well as the report of the direct contacts mission which, at the request of the Government of Thailand, visited the country from 4 to 11 September 1993.

In previous comments the Committee noted allegations brought before the United Nations Subcommittee on Prevention of Discrimination and Protection of Minorities that children were bought and sold in Thailand for work in private houses, restaurants, factories and brothels, that shops had specialized in the sale of children and young people, that child catchers and recruiters were operating in the country and that, although laws for the protection of children existed, there was a lack of enforcement by police. Having noted the information provided by the Government on the inspections carried out and on action taken against employers for infringements relating to children, it appeared to the Committee that the measures were somewhat limited in scope and that the sanctions applied were not commensurate to the physical and moral harm incurred by the children.

In 1992, the Committee noted the statement by the Prime Minister to the Eleventh Asian Regional Conference (November 1991) in which he expressed his firm conviction that the place for a child was in school and not in a factory; that it was not sufficient to wait for economic restructuring to redress the exploitation of child labour, and that he was determined to do away with child labour and safeguard the future of the underprivileged children in the country. The Committee noted the indications by the Government on measures adopted or contemplated concerning the revision and enforcement of laws, prevention and awareness-raising, extension of primary education. It requested the Government to provide specific information on a number of points including legislative measures, inspection and police action, complaints, prosecutions and sanctions and rehabilitation programmes. The Committee emphasized that forced labour exploitation of children, be it in forced child labour, child prostitution, child pornography, be it in factories, sweatshops, brothels, private houses or elsewhere is one of the worst forms of forced labour, which must be fought energetically and punished severely.

The Committee notes the information contained in the report by the direct contacts mission in relation to the application of the

Convention. The Committee notes that in 1988 the Government adopted a decision concerning "Policy and measures to solve problems on the exploitation of child labour"; in November 1992, the Government adopted a "Resolution on measures to solve problems of exploitation of child labour". In 1990 the minimum age for admission to employment was increased from 12 to 13 years; however, compulsory schooling finishes at grade 6 when children are normally aged 12. According to official statistical data 4 million children are employed; among these, 0.6 million are 13 to 14 years old. The Committee notes however from information gathered by the direct contacts mission that illegal shops exist by thousands. It is precisely among the working children not included in the statistics (in particular those under 13) who are illegally recruited and who work in illegal establishments that forced labour exploitation will be most prevalent.

Recruitment

The Committee notes from the report by the direct contacts mission that the recruitment of children by force and deception for work in factories, sweatshops or brothels continues in Bangkok, notably around the central railway and bus stations, as well as in the provinces, in particular the north and the north-east and across borders. Reference is made to deception by false promises as regards wages and other living and working conditions and to kidnapping. Non-governmental organizations like the Women Lawyers' Association, which is active at the central railway station to protect children, have to be extremely vigilant to outwit the recruiters.

The Committee also notes that the direct contacts mission was informed of practices of recruitment through intermediaries for the sugar cane plantations, concentrated in the province of Kanchanaburi. Recruiters gather people from the north-east, including children, convey them to the working areas in overcrowded trucks; they lend the workers money so as to entrap them in bondage for the following year. The Committee requests the Government to provide information on measures taken or envisaged to protect these workers from forced labour.

Exploitation of child workers

The Committee notes that the authorities provided the direct contacts mission with a copy of the first systematic and official research, conducted by the National Youth Bureau, Office of the Prime Minister, into child labour in the manufacturing industries to study the working conditions, welfare and development of working children and the compliance of employers with labour protection laws. This study noted, inter alia, violations of the law by limitation of personal rights, stating in particular that "most of the children lack the opportunity to go home for a visit, or even to get in touch with their family; some of the children to whom advance payment had been made were not allowed to go outside the workplace ... Many children staying with the employer were found to be confined, scolded and physically and psychologically assaulted". While this study was conducted in 1986, the Committee notes that the direct contacts

mission was informed that these practices continue to exist, as was confirmed by evidence given in particular by one rescued boy; he had been kidnapped at the railway station, was forced with other children to work extremely long hours, was beaten and not allowed to go out or look through the window. The factory in question, like many illegal factories, was composed of two adjoining sweatshops with all their windows sealed and the only corridor barricaded. The Crime Suppression Division of the police that raided the factory had to scale the fence to get into the building.

In a note provided by the Department of Labour Protection and Welfare to the mission entitled "Solving Thailand's child labour problems" the Government states that "For lack of jobs in their home provinces, child jobseekers have moved from rural areas to Bangkok and nearby provinces. That is why they are cheated and exploited. Many cases of illegal child employment show that children are overworked, lack appropriate rest periods and are involved in hazardous work. The neglect of their employers or supervisors, as well as the poor conditions, affect the child workers' health and growth".

The phenomenon of subcontracting, which is widespread, contributes to the exploitation of children notably by diluting responsibilities (the employer who gives work to a subcontractor does not control recruitment procedures, wages and conditions of employment of the people recruited by the subcontractor) and by preventing unionization.

Law enforcement

The Committee notes that the weakness of the law enforcement machinery was stressed by several groups and individuals; some increased law enforcement in relation to the exploitation of children through prostitution had, however, been noticed over the last months.

The mission was informed that the labour inspectorate was understaffed and underequipped and that in one of the industrial areas around Bangkok there were ten inspectors for 6,000 to 7,000 factories.

In documentation provided to the mission the Government indicated that during the period 1 October 1992 to 31 July 1993, the Department of Labour Protection and Welfare inspected 28,281 enterprises and found 4,550 enterprises employing children; 17,987 child workers passed inspection. These global figures do not provide specific information on inspection of places of work suspected of using forced child labour.

The Government has indicated that the Ministry of the Interior has appointed and authorized officers in the Ministry and of other organizations concerned to inspect enterprises in order to speed up child labour inspection. The Committee notes that this statement appears to relate to the "Role of the Ministry of the Interior governing the inspection of places of business operation and institution of criminal proceedings against offenders" (Government Gazette, 26 January 1993). Competent officials of the Labour Protection and Welfare Department can inspect places of business, so as to give advice and warnings to employers on the matter of compliance with the law and inspect and follow-up on results of the cases where employers are still not complying with the law. If it is

discovered that children between 13 and 15 are working without authorization, the competent official advises the employer to submit an application for permission to employ the child and consideration of issuing the permit will be within the authority of the competent official.

In relation to the police, documents submitted in 1982 to the United Nations referred to corruption of local police who should normally know where children are illegally employed. It was stated that raids on factories and brothels were carried out by a special police force, the Crime Suppression Division reacting to information received from members of the public, human rights organizations or escaped children.

The Committee notes from the direct contacts mission that the situation in this regard has hardly evolved: corruption persists; there is little interest in investigative work, because it is hard and has insufficient "extra" income. Women police are few in number and do mainly office work. It was mentioned to the direct contacts mission that training of law enforcement personnel was insufficient. The Government has mentioned a meeting organized for governors, commanders of provincial police offices and provincial chiefs of labour protection and welfare to emphasize the implementation of policy and measures on child labour as well as its intention to train more than 2,500 labour inspectors.

In relation to prosecutions and judicial decisions, the Committee notes that the mission was informed by police authorities that there had been five prosecutions; this relatively small number was linked to the fact that cases are often settled by negotiation, victims being discouraged to engage in lengthy proceedings. The boy rescued in November 1991 told the mission that since this date the owner of the factory was in prison and his partner free on bail and court proceedings were pending. On the other hand the Government mentioned in its aforementioned note that 58 employers had been prosecuted for unfair labour practices and exploitation of child labour; two were punished by imprisonment and fines amounted to 134,300 bahts. It also indicated that the Ministry of the Interior had announced instant prosecution for employers who imprison, confine and abuse children.

The Committee notes that the aforementioned rule of the Ministry of the Interior provides that in the case in which a competent official is of the opinion that criminal proceedings should be instituted, action shall be taken as follows: labour cases are dealt with by the Committee's procedures for compounding offences, or legal action will be instituted in accordance with the Criminal Procedure Code (if the offence is not compounded because of the opposition of the violator, the aggrieved party or the Committee); in the case where criminal action is instituted for the reason that a child has been detained, incarcerated or tortured, if it is discovered that the employer has also committed a labour offence connected with the use of child labour, the Department of Police and the competent officials collaborate to take proceedings under the Criminal Code.

Among other control measures the Government has mentioned the registration of child labour working out of district areas and the establishment of committees and working groups to protect child labour. The hot-line which was established by the Government in 1991

is well known to the public and an appreciable number of cases of child abuse have been reported.

Rehabilitation

The Committee notes that the Government provides shelter, food and clothes to rescued children as an urgent measure, as well as family assistance in cash (vocational capital) and kind (educational supplies). Officials have mentioned to the direct contacts mission that help had been provided to 112 rescued children. The Committee notes however that according to official and NGOs' critics, there exists no effective programme of rehabilitation, as such programme should encompass all aspects of childrens' rehabilitation.

Community awareness-raising and mobilization

The Committee notes from the direct contacts mission report that many of the persons interviewed stressed the importance of community awareness-raising and mobilization in preventing child exploitation and detecting exploiters with a view to their punishment ("community watch").

It was stated that radio and television programmes are devoted to educational and developmental news; village loudspeaker systems or village radios throughout the country repeat messages relevant to overall welfare and development of villages. It was felt that the authorities should empower the community by means of incentives and facilities to intervene on behalf of children through non-governmental organizations, community leaders and the mass media. The necessity of mobilizing parliamentarians, mayors and the military as well as the Buddhist church community was stressed.

The Committee notes that for its part the Government referred to the following measures: to set up a campaign to prevent child labour exploitation and unfair practices through the mass media, including dissemination of posters in communities and issuing stamps (measures which have, according to the Government, been implemented in 60 provinces); to disseminate around 100,000 booklets and pamphlets concerning child labour to local leaders, students, and the general public; to organize 214 meetings for almost 10,000 employers, in Bangkok and in rural areas.

Legislative initiatives

The Committee notes that the direct contacts mission was informed of certain legislative initiatives:

- an amendment to the Criminal Code providing for increased penalties against those found guilty of imprisoning and forcing children to work, endangering their body or mind, causing their death, has passed the first reading in Parliament (three readings are required for the adoption of the amendment);
- the Ministry of the Interior has proposed an amendment to the Labour Protection Law which would reduce working hours for children aged 13 to 15 years in industrial work from 48 hours per week, and in commercial work from 54 hours per week, to 36 hours

- per week or six hours per day. It also provides for an increased penalty in case of infringement;
- reference was made to two draft laws submitted to Parliament to amend the law prohibiting the sale and trafficking in women and children and the 1928 law on prostitution control. The amendments to the latter law would reinforce sanctions applicable and extend criminal liability;
 - the Department of Public Welfare has indicated that a draft law to amend the Revolutionary Party Announcement No. 294 dealing with welfare and protection to disadvantaged children has been prepared.

Child sexual exploitation

The Committee notes that the sexual exploitation of children is an extremely serious problem both in terms of magnitude and complexity. It is as difficult to assess its magnitude as it is for forced child labour; it is hidden from view, it calls on the most abject perversion of humans and is protected by gangs and mafias. The Ministry of Health, Division of Venereal Diseases Control reported in 1990 that child prostitutes numbered 86,000; data from the Police Department show that out of an estimated 400,000 prostitutes, 40 per cent (i.e. 160,000) would be under 16. Non-governmental organizations' (NGOs) estimates range from 200,000-300,000 to 800,000 children in prostitution. The situation has been aggravated by the arrival of children trafficked from countries such as Cambodia, China, Laos and Myanmar. Clients prefer young children to prevent AIDS transmission and younger and younger children are thus lured from their villages, locked up, physically and psychologically scarred; many are in addition HIV positive and live under the permanent threat of contracting AIDS.

Preventive and protective measures necessary to combat child forced labour will equally be valid in the struggle against child sexual exploitation.

* * *

The Committee notes that Thailand has witnessed a tremendous national growth rate over recent years, emerging as a newly industrialized country. However, large pockets of poverty and profound disparities remain or have widened between rich and poor. While poverty is one of the contributing factors to child labour, it cannot be taken as an excuse for perpetuating child labour, or even less so for forced labour exploitation of children. Effective policies and measures to enhance social justice and equity can go a long way to help children and families left at the periphery of development and contribute to the protection of children.

The Committee notes that many children continue to work under coercion or in conditions of exploitation which have no resemblance to a free employment relationship. The situation is often linked to forced or false recruitment, deception and trafficking. Children are exploited because they are young and helpless, they are deprived of

the right to lead a normal childhood, deprived of education, deprived of a future.

Successive governments have indicated good intentions, formulated policies and announced measures to combat the exploitation of children. The present Government has announced its policy, in particular in relation to child sexual exploitation, more than a year ago; it has started taking certain measures and initiated certain legislative reforms. Concrete and effective action has now to follow.

What is required is the formulation of clear goals and well-defined strategies to attain those goals.

The Government might consider developing a comprehensive national programme of action against forced child labour exploitation. This programme could draw from the Programme of Action against Child Bondage adopted in November 1992 by the Asian Regional Seminar on Children in Bondage, in the drafting and adoption of which Thailand participated. It would have to be implemented on a priority basis as forced child labour is intolerable and calls for urgent action.

The Committee considers the establishment in the immediate future of a comprehensive legal framework to combat forced child labour exploitation to be indispensable.

As concerns the different draft laws submitted to Parliament or under consideration by the Government, the Committee expresses the hope that the Government will be in a position to accelerate proceedings for their adoption as it can give priority for a draft to be included on the Parliament's agenda, and that provisions designed to reinforce action and sanctions against forced labour exploitation of children will be adopted at an early stage.

In relation to law enforcement which is of crucial importance, the Committee notes that while there are laws for the protection of children and while new laws to strengthen penalties against exploiters are under consideration, these laws have to be implemented in practice. There exists a generally recognized need to improve the quality of law enforcement, increase the number of labour inspectors, counter corruption, in particular in the police. The Committee notes that it has been suggested that women police could be entrusted with investigation of cases involving women and children. Law enforcement requires essentially the political will of the Government to provide the necessary means for effective action.

The Committee considers that the Government could also stimulate the "community watch", raise awareness in society to the laws so that child labour exploitation be regarded as unacceptable. It could remind hospitals to report cases of ill-treatment of children brought to their attention.

In relation to rehabilitation, it appears that there exists no comprehensive programme. As rehabilitation is a critical component of any action against forced child labour exploitation, a serious effort by the concerned authorities is needed in this regard. NGOs have been and are essential in helping in the rehabilitation of rescued children. The Government should collaborate with the NGOs in elaborating and conducting comprehensive rehabilitation efforts.

Rehabilitation and education are closely linked. Education is one of the essential means in preventing forced child labour exploitation as well as in rehabilitating rescued children. The Government has

adopted some years ago a policy measure for the future extension of compulsory education from grade 6 to grade 9 and stated that it is planned for the moment to extend compulsory education up to grade 7. This would mean that children (if they do not drop out) would leave the educational system at the age of 13, which corresponds to today's minimum age for admission to employment. The Committee hopes that this intention will be translated into reality in the immediate future, accompanied by family support measures so as to limit drop-outs and that the gradual extension to grade 9 will follow.

The Committee notes that the direct contacts mission was left with the distinct impression that there was too little coordination between the various agencies of the Government dealing with the employment of children and thus a lack of appreciation on the part of the authorities of the true extent of the problem of forced child labour exploitation. Close collaboration between agencies such as the National Youth Bureau, the Department of Labour Protection and Welfare and the Department of Public Welfare as well as with the police is important. In addition, given the close relationship between issues affecting children and women, cooperation between institutions such as the National Youth Commission and the National Commission on Women's Affairs would no doubt be useful.

The Committee notes that the direct contacts mission noticed some signs of increased awareness and commitment during its visit in September 1993. The Committee hopes that these signs will be translated into effective action and that the Government will provide full particulars on measures adopted with a view to eliminating forced child labour exploitation, and provide information on the different points mentioned above, in particular on measures adopted in relation to legislative reforms, enforcement of legislation, on sanctions applied and on rehabilitation programmes.

A request is being addressed directly to the Government concerning certain points, inter alia, on trade union membership of working children, as well as on a number of points raised in previous comments.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Tunisia (ratification: 1962)

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

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

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

The Committee notes with interest the Government's statement in its report that the President of the Republic ordered, on 17 July 1993, the preparation of a draft text to abolish the penalty of rehabilitation through work established under Legislative Decree No. 62-17 of 15 August 1962. This decision forms part of the continuous action undertaken since 7 November 1987 to reinforce individual freedoms and safeguard human dignity.

The Committee requests the Government to supply information on the progress achieved in this work and the text of the provisions that are adopted to bring the above Legislative Decree and Act into conformity with the Convention.

2. In its previous comments, the Committee noted that by virtue of section 3 of Act No. 89-51 of 14 March 1989 respecting military service, conscripts may, following basic military training and once the requirements of the units of the armed forces have been satisfied, be assigned collectively to the internal security forces and to development units, or individually to the public administration, to enterprises or to technical cooperation activities. Citizens who are not subject to national service obligations may be called up individually as civilian conscripts, except in cases of absolute physical incapacity, to be employed in cases of necessity in the administrative, economic, social and cultural services.

The Committee refers to Article 2, paragraph 2(a), of the Convention and to Article 1(b) of Convention No. 105, as well as to paragraphs 24 to 33 and 49 to 62 of its 1979 General Survey on the Abolition of Forced Labour, in which it examined the obligations flowing from the Conventions in this respect and described the problems arising from the use of recruits for non-military purposes. The Committee hopes that the Government will take the necessary measures to ensure the observance of the Convention in this respect.

The Committee notes that the Government's report does not contain information on this subject. It once again hopes that the Government will indicate the measures which have been taken or are envisaged to bring the provisions in question into conformity with the Convention.

Ukraine (ratification: 1956)

The Committee notes with satisfaction that section 214 of the Penal Code concerning "persons leading a parasitic way of life", and the Order of 3 January 1985 of the Supreme Soviet of the Ukrainian SSR on the manner to applying this section, were repealed by Act of 7 July 1992 (No. 2547-XII).

The Committee likewise notes that by Order of 10 September 1991, No. 194, of the Council of Ministers, Order No. 138 of 10 March 1970 respecting measures to strengthen the struggle against persons evading socially useful work and leading a parasitic way of life, and Order No. 365 of 10 November 1987 respecting additional measures to recruit the unemployed part of the able-bodied population for socially useful work, were repealed.

The Committee finally notes with satisfaction that by Order of 7 July 1992 (No. 2548-XII), the Supreme Soviet of the Ukraine decreed that persons convicted under section 214 of the Penal Code be released

from serving their sentences and that criminal proceedings against persons charged under the aforementioned section be dropped.

United Kingdom (ratification: 1931)

With reference to its comments regarding the privatization of prisons and work performed by prisoners, the Committee notes the information provided by the Government in its report.

The Committee also notes the observations made by the Trade Union Congress (TUC) on the application of the Convention which have been sent by the Government with its report.

Article 2, paragraph 2(c), of the Convention. The Committee noted previously that under the Criminal Justice Act of 26 July 1991, certain prisons may be contracted out (section 84); they are run by a director appointed by the contractor and approved by the Secretary of State, and controlled by a Crown servant (section 85). The Government indicated that the Act enables the Government to seek tenders from the private sector for the management of the new remand prisons and that a first contract had been signed for a period of five years relating to the remand prison of Wolds accommodating prisoners awaiting trial or sentence. The Government also indicated that under the Prison Rules, unconvicted prisoners are not required to work, while for convicted prisoners work is compulsory. At Wolds, work would apply to domestic requirements and to a multi-skills workshop and prisoners choosing to participate would receive pay and acquire training. The Committee also noted the Government's indications concerning control, discipline, inspection and monitoring of prisons and it requested the Government to provide detailed information on the number of prisons contracted out and of prisoners concerned, the wages paid in relation to the normal minimum wages applicable in the different work sectors and other details on social security benefits and on deductions made from pay.

The Committee notes the Government's indication in its latest report that two prisons have been contracted out namely the Wolds Remand Prison (operational as from April 1992), and Blakenhurst Prison (as from 26 May 1993). At Wolds, in a typical week in March 1993 out of an average population of 318 untried or unsentenced prisoners, 122 worked a total of 2,089 hours a week. As concerns Blakenhurst, the contract with the private sector operator requires that convicted and sentenced prisoners (about half of the expected 649 inmates) participate in work and vocational programmes (35 hours per week in a seven-hour day), while remand prisoners are able to participate if they so wish, and are encouraged to do so. The Government adds that opportunities for work in both the internal domestic areas and the internal grounds are provided and there exists a range of workshops with provisions for a number of industrial or training sections which include a laundry, three workshop training areas and two construction industry training shops for painting and decorating courses and plastering. Work in training workshops should lead to nationally recognized qualifications.

As concerns remuneration the Committee notes that the Government refers to the "Prisoners' Pay Manual" published by the Prison Service

in November 1992 and communicated by the Government with its report. This pay scheme applies to prisoners in the (state-run) prison service.

According to the Government's indication this new pay scheme provides a framework, delegating application to each prison governor, and there exists no standard payments for different sectors of work available to prisoners in the prison service. The governor sets the pay rates locally and prisoners have to achieve acceptable levels of quality, output and activity which should be agreed with them in advance; where the required standard is not met, reductions in pay can be made. The Government also states that most prisoners do not earn enough to have deductions made from pay.

The Committee notes the Government's statement that it is the intention of the contractors both at Wolds and at Blakenhurst to follow the principles for inmates' pay set out in the "Prisoner's Pay Manual".

The Committee notes that the scheme provides for three different wage levels: a Basic Rate (BR), set nationally, which a prisoner willing to engage in purposeful activity but who cannot be offered a place, should expect to receive to meet his basic needs; an Employment Rate (ER) which is the same for all prisoners across the Service, to be paid to a prisoner engaged in a purposeful activity and who performs this activity to an acceptable level of quality and effort; a Standard Rate (SR) which may be set by the prison governor locally for purposeful activity at a rate above the Employment Rate. For the purpose of the pay scheme, "purposeful activities" encompass work (i.e. in workshops; on farms and gardens; domestic services; works maintenance parties; community projects; or work for outside employers), training and day-time education.

The Committee notes that the Manual stresses that in the prison service prisoners' pay has traditionally been set at pocket-money level; pay levels were inadequate even for this modest purpose; pay increases have been recommended in several reports; thus the "Woolf report" proposed an average weekly wage of £8 and the Government's White Paper "Custody, Care and Justice" published in 1991 accepted this as an initial aim, as soon as resources allow.

The Committee notes the comments by the Trade Union Congress (TUC) that a programme of privatization has been introduced whereby the running of two prisons has been contracted out to private security companies and Blakenhurst prison and Wolds remand prison have been privatized. Blakenhurst is run by "UK Detention Services", a consortium of the Corrections Corporation of America and the construction companies "Mowlem Alpine" which built Wolds. Wolds is run by the "Group 4 Company". As concerns the functions devolved to the Controller which are to inquire into and adjudicate on disciplinary charges brought against prisoners, the TUC considers that this does not amount to supervision and control by a public authority of the prison labour, as required by the Convention. The TUC draws attention to Article 2, paragraph 2(c) of the Convention and the Committee's 1979 General Survey on the Abolition of Forced Labour recalling the rejection (by the Conference) of a proposal which would have permitted the hiring of prison labour to private undertakings engaged in the execution of public works.

The TUC refers more specifically to the nature, conditions and pay of work done by prisoners in the privately run prison of Blakenhurst and in different state-run prisons which have concluded delivery contracts with outside private companies. The Committee notes in particular that the TUC states in relation to Blakenhurst prison, that the Director of the prison service has provided information to the effect that prisoners are engaged in kitchen, wing servery, domestic cleaning, works maintenance, garden work, light assembly and laundry work; that pay scales average £6.50 per week and rates vary according to the work undertaken; and that revenue accruing from work is used for prisoner pay. However, in the opinion of the TUC, normal wages are not paid and, while it is said that profits accruing from prison labour are used to enhance facilities for prisoners, it seems to the TUC that prison labour is being used by a private company to cut the costs of running the prison and enhance private profit.

The Committee notes that the Government has provided no comments in response to the TUC's observations.

The Committee also notes information according to which a further prison is in the process of being contracted out.

The Committee recalls that Article 2, paragraph 2(c), of the Convention, explicitly prohibits that persons from whom work is exacted as a consequence of a conviction in a court of law, be placed at the disposal of private individuals, companies or associations. As the Committee has noted in its 1979 General Survey on the Abolition of Forced Labour, in adopting this provision the Conference expressly rejected an amendment which would have permitted the hiring of prison labour to private undertakings engaged in the execution of public works. It is therefore not sufficient to limit the use of prison labour to works of public interest, since such works may be carried out by private undertakings.

The Committee has indicated in the above-mentioned General Survey that the prohibition of Article 2, paragraph 2(c), is not limited to work done outside the penitentiary establishments but applies equally to workshops operated inside prisons by private undertakings. A fortiori, the prohibition covers all work organised by privately-run prisons.

The Committee recalls that wherever prisoners are placed at the disposal of private companies only work performed in conditions of a free employment relationship can be held to be compatible with the prohibition of the Convention; this necessarily requires the formal consent of the person concerned and, in the light of the circumstances of that consent, guarantees and safeguards in respect of wages and social security that are such as to justify the relationship being regarded as a free one.

The Committee hopes that the Government will provide detailed information on measures taken or envisaged to ensure the observance of the Convention.

Venezuela (ratification: 1944)

The Committee notes the Government's detailed report.

Article 2, paragraph 2(c). In its previous comments, the Committee referred to sections 17, 21 and 23 of the Act of 1956 respecting vagrants and rogues, which empowers the administrative authorities to order internment in a rehabilitation and labour establishment, an agricultural reformatory colony or a work camp, to reform vagrants and rogues or to put them out of harm's way. The Committee pointed out that, in accordance with the Convention, work can only be exacted from a person as a consequence of a conviction in a court of law. It requested information on the number of persons who, during a three-year period, had been the subject of such measures, the duration of the measures and the establishments in which those concerned had been detained.

The Committee also requested the Government to take the necessary measures to ensure a more restrictive definition of vagrancy in sections 1 and 2(a) of the above Act, since laws which define vagrancy and similar offences in an unduly extensive manner are liable to become, directly or indirectly, a means of compulsion to work, in violation of the Convention.

The Committee notes the information supplied by the Government in its report to the effect that, under the above provisions, security measures were applied to 476 persons in 1990, 560 persons in 1991 and 911 persons in 1992 and that they were for a duration of between 30 and 36 months.

Despite the fact that the above figures show a tendency for the application of such measures to increase, the Committee notes with interest from the information supplied by the Government that, although the Act respecting vagrants and rogues (which is intended to cover potentially dangerous situations in which no crime has been committed and which allows the jurisdiction of the courts to be transferred to the administrative authorities) has not yet been repealed, there are currently two petitions for the above Act to be declared unconstitutional, the texts of which were supplied by the Government. The Government adds that a draft Code of Sanctions has been submitted to Congress to determine competence for the imposition of sanctions, which would repeal the Act respecting vagrants and rogues.

The Committee hopes that in its next report the Government will be able to state that the above provisions have been repealed, thereby ensuring observance of the Convention on this point.

Zaire (ratification: 1960)

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

1. In comments it has been making for many years, the Committee has referred to the following texts:

- the provisions of Act No. 76-011 of 21 May 1976 concerning national development efforts, which require, under penalty of penal sanctions, every able-bodied adult person who is a national of Zaire and who is not already considered to be making his contribution by reason of his employment

(political representatives, wage earners and apprentices, public servants, tradesmen, members of the liberal professions, the clergy, students and pupils), to carry out agricultural work and other development work laid down by the Government. It also noted the measures to implement the Act laid down in Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976;

- sections 18 to 21 of Legislative Ordinance No. 71-087 of 14 September 1971 on minimum personal contributions, which provides for the imprisonment with compulsory labour of tax defaulters by decision of the chief of the local community or the area commissioner, as a means of recovering the minimum personal contribution.

For many years the Government has referred to draft amendments to the provisions in question. The Committee again expresses the hope that the Government will indicate the measures taken to bring these provisions into conformity with the Convention and that it will provide a copy of the texts adopted for this purpose.

2. The Government also stated its intention of repealing Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in native districts, which allows work to be exacted from detainees who have not been sentenced. The Government stated that this text had fallen into disuse and was contrary to Ordinance No. 344 of 17 September 1965 governing prison labour. The Committee noted the indications in the Government's report for the period ending 30 June 1992 that, following a critical analysis of the laws and regulations concerning the organization and operation of the judicial system, the Supreme National Conference has decided to reform the penitentiary system and repeal certain provisions of the law to ensure that detainees are integrated into society and contribute to the community. Detainees will maintain all the rights to which free men are entitled except the right to come and go freely.

The Committee again expresses the hope that the provisions to be adopted will be consistent with those of Article 2, paragraph 2(c), of the Convention and that the Government will provide information on any developments in this regard.

3. In its previous comments, the Committee stressed the need to include a provision in the national legislation establishing penal sanctions for persons who unlawfully exact forced or compulsory labour, in accordance with Article 25 of the Convention. The Committee noted the Government's indication that it was planned to insert such a provision into the draft of the revised Labour Code.

In its report for the period ending June 1992 the Government indicated that, in view of the changes in labour relations and personal freedoms, the draft of the revised Code had to be updated. The Committee trusts again that the final draft will prohibit forced or compulsory labour under penalty of really effective penal sanctions and that the Government will provide a copy of it.

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

Zambia (ratification: 1964)

Further to its previous comments, the Committee notes with satisfaction that Regulation No. 40 of the Preservation of Public Security Regulations, under which public officers could be prohibited from leaving their employment, was repealed by the Preservation of Public Security (Amendment) Regulations, 1990.

A request is being addressed directly to the Government in relation to Regulation No. 41 of the Public Security Regulations as well as on a certain number of other points.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Antigua and Barbuda, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Denmark, Djibouti, Dominica, Dominican Republic, Fiji, France, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, India, Indonesia, Iraq, Ireland, Italy, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Malaysia, Mali, Mauritania, Nicaragua, Niger, Pakistan, Papua New Guinea, Paraguay, Peru, Romania, Russian Federation, Saudi Arabia, Senegal, Solomon Islands, Sri Lanka, Suriname, Syrian Arab Republic, Swaziland, United Republic of Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Kingdom, Ukraine, Zaire, Zambia.

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

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

Chile (ratification: 1935)

The Committee notes the Government's report and the information supplied in answer to its previous comments. It notes, however, that the Government provides no new information on the comments made by the Committee in its previous observations on the application of Articles 7 and 8 of the Convention, except to indicate that hours worked in excess of normal working hours are voluntary, exceptional and limited. The Committee pointed out that overtime worked by employees in commerce may be authorized only by regulations established after consultation with employers' and workers' organizations.

The Committee must therefore recall that exceptions to normal working hours are allowed only in the cases provided for in Article 7, paragraphs 1 and 2, of the Convention and that the maximum number of

additional hours that may be allowed must be fixed on a daily basis with regard to permanent exceptions and on a yearly basis for temporary exceptions (Article 7, paragraph 3). Furthermore, these exceptions must be determined after consultation with employers' and workers' organizations (Article 8).

The Committee once again asks the Government to take the necessary measures to bring its legislation fully into conformity with the Convention in respect of these points.

Kuwait (ratification: 1961)

See the comments made in the observation concerning Convention No. 1 and the application of Articles 1, 2 and 6, paragraphs 1(b) and 2, of that Convention.

Panama (ratification: 1959)

The Committee notes the information supplied by the Government in answer to its previous comments. It notes the official establishment, on 21 January 1992, of the Tripartite Committee for Cooperation in Social and Labour Matters, whose functions include harmonizing the Labour Code with the provisions of Article 7, paragraphs 2 and 3, of the Convention.

The Committee recalls in this connection that a Bill was drafted during the direct contacts held in November 1977 with a representative of the Director-General of the ILO to set a maximum of 250 hours' overtime per year in commerce and offices, since the possibility of doing three hours' overtime per day and nine per week, without any reasonable annual limit (the 468 hours per year calculated by the Government were deemed excessive) was not considered to be fully in conformity with the above Article of the Convention.

The Committee again expresses the hope that the Government will shortly be in a position to fix an annual limit for temporary exceptions, in the light of the work of the Tripartite Committee and the above comments. It asks the Government to keep the Office informed of any developments in this respect.

Paraguay (ratification: 1966)

See the comments under Convention No. 1 concerning the promulgation of the new Labour Code, No. 213 of 21 June 1993.

Syrian Arab Republic (ratification: 1960)

See the comments made in the observation concerning the application of Convention No. 1.

* * *

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

Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932Algeria (ratification: 1962)

The Committee notes the Government's report for the period ending 30 June 1992.

1. In its previous comments, the Committee noted that Act No. 88-07 of 26 January 1988 respecting occupational health, safety and medicine established the general framework for the prevention of occupational risks, but does not contain specific provisions applicable to dock work which give effect to the Convention. The Committee notes the Government's statement in its report that a specific text covering ports and docks is provided for under Act No. 88-07, and that this text continues to be examined according to the guidance and the time-limits set by the Government. The Committee hopes that the necessary provisions to give effect to the Convention will be adopted and that the Government will be able to supply the adopted text in the near future, or at least information on the guidance given and the time-limits established in that respect.

2. The Committee notes from the Government's report, that internal regulations and collective agreements applying to port enterprises establish the necessary hygiene and safety requirements for the health of workers and that a joint occupational health and safety commission is set up in each unit to establish the health and safety rules. The Committee requests the Government to supply samples of the various texts referred to which relate to occupational health and safety in the enterprises concerned in the various ports of the country.

The Committee notes the text of the Inter-Ministerial Order of 5 November 1989 respecting the procedure for supervising the processes of loading and unloading hazardous goods (Article 12), which was supplied by the Government with its report. It notes that under the terms of section 2 of the Order, the supervisory procedure "is established in documents 1 and 2 attached to the text of the present Order". The Committee requests the Government to supply copies of these documents.

Italy (ratification: 1933)

For a number of years, the Committee has been noting that the protection of dockers against accidents is governed by a large number of local regulations in the various ports of the country which do not always give effect to the Convention.

The Committee notes with interest, from the Government's report, that a text to reorganize the legislation relating to ports was adopted by the Senate and was under examination by the Transport Committee of the Chamber of Deputies. It notes that under section 23(3) of this draft text, the Government is authorized to issue, within six months following the coming into force of the Act, regulations containing provisions respecting occupational safety and health which are applicable to port work. The Committee hopes that regulations which give full effect to the Convention throughout the national territory will be adopted in the near future and that the Government will supply a copy of the text when it is adopted.

Pakistan (ratification: 1947)

The Committee notes the Government's report for the period ending 30 June 1992, received in June 1993.

In the direct request addressed to the Government in 1993, the Committee noted the comments made by the Fishing Vessels Employees' Union in its communication of 11 July 1991 on the working conditions of coastal fishermen; in this communication, a copy of which was forwarded to the Government on 20 August 1991, the Fishing Vessels Employees' Union alleges that fishermen employed on seagoing fishing boats, crafts and trawlers have not been provided statutory protection under any enactment, in violation of, inter alia, the Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932. In the absence of a reply by the Government, the Committee hopes that the Government will supply full information on any measures taken to apply the Convention to the fishing vessels concerned or to except them from the scope of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

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

Convention No. 34: Fee-Charging Employment Agencies, 1933Argentina (ratification: 1950)

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

With reference to its previous comments, the Committee notes the Government's report for the period ending 30 June 1991, which states that there have been no new developments and that the Government refers the Committee to the information sent in reply to the observation of 1988.

In its observation of 1988, the Committee noted a draft Bill to ratify the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). In its observation of 1990, the Committee noted two private members' Bills with the purpose to abolish the role of fee-charging employment agencies in the placement of temporary workers. In the same observation, the Committee also noted Decree No. 1455, of 8 August 1985, issuing regulations governing the activities of agencies for temporary workers (ATT).

In its previous comments, the Committee drew the Government's attention to the more flexible provisions of Convention No. 96. Each Member ratifying Convention No. 96 must indicate in its instrument of ratification whether it accepts the provisions of Part II, which provide for the progressive abolition of fee-charging employment agencies conducted with a view to profit and the regulation of other agencies; or the provisions of Part III, which provide for the regulation of fee-charging employment agencies, including agencies conducted with a view to profit. The ratification of Convention No. 96 involves ipso jure the immediate denunciation of Convention No. 34.

Sections 77 to 80 of the National Employment Act (Act No. 24013, promulgated in December 1991) establish a new regulation concerning agencies called "temporary employment enterprises", which appear to act as intermediaries in the recruitment of workers for temporary employment elsewhere.

The Committee again reminds the Government that, under the provisions of Articles 2 and 3 of Convention No. 34, fee-charging employment agencies conducted with a view to profit should have been abolished by 1955 (i.e. three years after the entry into force of the Convention). The Committee therefore asks the Government to indicate whether the special temporary employment enterprises provided for in the National Employment Act of 1991 can be considered as such employment agencies which should have been abolished by 1955 or as "employment agencies not conducted with a view to profit" (within the meaning of the provisions of Article 1, paragraph 1(b), and Article 5). If the latter be the case, the Committee would be grateful if the Government would specify the provisions in the national legislation which ensure that effect is given to the Convention and particularly that the special short-term employment agencies "shall not make any charge in excess of the scale of charges fixed by the competent authority with strict regard to the expenses incurred" (Article 4(b)).

2. The Committee further notes the observations made in June 1993 by the Congress of Argentinian Workers (CTA) concerning the activities of "temporary employment enterprises" regulated under the National Employment Act No. 24.013 of 1991 referred to above. The

Committee also notes that these observations were sent to the Government, in June 1993, for such comments as might be judged appropriate. The Committee observes that no comments have been communicated by the Government so far. It therefore requests the Government to refer to these observations in its next report and to make such comments as it considers appropriate in order to enable the Committee to examine the substantive questions raised by the above-mentioned organization at its next session.

* * *

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

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

Peru (ratification: 1945)

I. The Committee takes note of the detailed information communicated by the Government in its report, particularly concerning the new pensions system introduced by Legislative Decree No. 25897 on the private system for the administration of pension funds (SPP) of 27 November 1992, as well as by Supreme Decrees Nos. 206-92-EF and 220-92-EF. The Committee also notes the comments of "Centro Union de Trabajadores de Perú IPSS".

The Committee takes note, in particular, that the national social security pensions system administered by the Peruvian Institute of Social Security will continue to be in effect for its present members, unless they opt to be members of the new private pensions system. It also notes that new entrants to the labour market have the option of joining one or the other of the above systems. However, the Committee notes that once they have joined a pension fund administration (AFP), the wage-earners can only rejoin the IPSS national system during a transitional period of two years after the entry into force of the new law, that is to say until 6 December 1994.

Moreover, the Committee notes that the new private pensions system raises a certain number of problems from the point of view of the application of the Convention. As a result it wishes to draw to the attention of the Government the following provisions of the Convention:

1. Article 4 of the Convention (in relation to Article 8). The Committee notes that under the terms of sections 42 and 43 of Legislative Decree No. 25897 of 27 November 1992 the worker who is a member of the SPP has the possibility to draw his pension, of choosing the "programmed retirement" method and that, under this method, the insured person can make monthly withdrawals until the exhaustion of the accumulated capital in his account. It requests the Government to indicate the manner in which the right to an old-age pension is guaranteed once this capital is exhausted, in accordance with this provision of the Convention.

2. Article 9, paragraph 1 (financial participation of employers). The Committee requests the Government to indicate the measures taken or envisaged to complete Legislative Decree No. 25897 of 27 November 1992 so that employers shall contribute to the financial resources of the insurance scheme for wage-earners, in accordance with this provision of the Convention.

3. Article 9, paragraph 4 (financial participation of public authorities). The Committee requests the Government to indicate the measures taken or envisaged to guarantee, within the framework of the SPP, the contribution of public authorities to the financial resources or to the benefits of the insurance scheme, as provided under this provision of the Convention.

4. Article 10, paragraph 1 (administration of insurance scheme). The Committee requests the Government to indicate the measures taken or envisaged to give effect, within the framework of the SPP, to this provision of the Convention which provides that "the insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit, or by state insurance funds".

5. Article 10, paragraph 4 (participation of insured persons in the management of insurance). The Committee asks the Government to indicate the measures taken or envisaged to be taken to give effect, within the framework of the SPP, to this provision which provides that "representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws ...".

II. Referring to its previous comments concerning Article 11, paragraphs 2 and 3, the Committee takes note with interest the legal texts communicated at its request by the Government in its report.

III. The Committee notes the communication of the Associated Circle of Employees and Retired Persons of Electrolima (ADEJE) which referred to the dissolution and liquidation of the Electolima Social Benefits Fund (Supreme Decree No. 011-93TR). The communication was transmitted in February 1994 to the Government for comments. The Committee hopes that the next report of the Government will contain details in this regard, and in particular on the manner in which the old-age benefits are guaranteed for the workers concerned.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

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

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

Peru (ratification: 1945)

See under Convention No. 35.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

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

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

Peru (ratification: 1945)

I. The Committee takes note of the detailed information communicated by the Government in its report, particularly concerning the new pensions system introduced by Legislative Decree No. 25897 on the private system for the administration of pension funds (SPP) of 27 November 1992, as well as by Supreme Decrees Nos. 206-92-EF and 220-92-EF. The Committee also notes the comments of "Centro Union de Trabajadores de Perú IPSS".

The Committee takes note, in particular, that the national social security pensions system administered by the Peruvian Institute of Social Security will continue to be in effect for its present members, unless they opt to be members of the new private pensions system. It also notes that new entrants to the labour market have the option of joining one or the other of the above systems. However, the Committee notes that once they have joined a pension fund administration (AFP), the wage-earners can only rejoin the IPSS national system during a transitional period of two years after the entry into force of the new law, that is to say until 6 December 1994.

Moreover, the Committee notes that the new private pensions system raises a certain number of problems from the point of view of the application of the Convention. As a result it wishes to draw to the attention of the Government the following provisions of the Convention:

1. Articles 3, 5 and 6 of the Convention. The Committee notes that pursuant to the final paragraph of section 100 of Supreme Decree No. 206-92-EF those workers who have contributed without interruption until the month preceding the contingency have the right to invalidity benefit. It would be grateful to the Government if it would indicate in its next report the manner in which it has given effect to the above-mentioned provisions of the Convention.

2. Article 10, paragraph 1 (financial participation of employers). The Committee requests the Government to indicate the measures taken or envisaged to complete Legislative Decree No. 25897 of 27 November 1992 so that employers shall contribute to the

financial resources of the insurance scheme for wage-earners, in accordance with this provision of the Convention.

3. Article 10, paragraph 4 (financial participation of public authorities). The Committee requests the Government to indicate the measures taken or envisaged to guarantee, within the framework of the SPP, the contribution of public authorities to the financial resources or to the benefits of the insurance scheme, as provided under this provision of the Convention.

4. Article 11, paragraph 1 (administration of insurance scheme). The Committee requests the Government to indicate the measures taken or envisaged to give effect, within the framework of the SPP, to this provision of the Convention which provides that "the insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit, or by state insurance funds".

5. Article 11, paragraph 4 (participation of insured persons in the management of insurance). The Committee asks the Government to indicate the measures taken or envisaged to be taken to give effect, within the framework of the SPP, to this provision which provides that "representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws ...".

6. Moreover, the Committee wishes the Government to indicate in its next report if a worker who receives an invalidity pension in the framework of the SPP can choose to receive his pension in one of the four forms provided for under section 42 of Legislative Decree No. 25897 of 1992, and in particular in the form of programmed retirement, as set out under section 43 of this Legislative Decree.

7. Finally, the Committee notes that, under section 48 of Legislative Decree No. 25897 of 1992, the risks of invalidity and of death can be administered at the choice of the AFP, either by the AFP itself or by the insurance companies. It would be grateful to the Government if it would supply detailed information on the implementation in practice of the above-mentioned section 48.

II. Referring to its previous comments concerning Article 12, paragraphs 2 and 3, the Committee takes note with interest the legal texts communicated at its request by the Government in its report.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to Djibouti and Poland.

Convention No. 38: Invalidity Insurance (Agriculture), 1933

Peru (ratification: 1945)

See under Convention No. 37.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to Djibouti and Poland.

Convention No. 39: Survivors' Insurance (Industry, etc.), 1933

Peru (ratification: 1945)

I. The Committee takes note of the detailed information communicated by the Government in its report, particularly concerning the new pensions system introduced by Legislative Decree No. 25897 on the private system for the administration of pension funds (SPP) of 27 November 1992, as well as by Supreme Decrees Nos. 206-92-EF and 220-92-EF. The Committee also notes the comments of "Centro Union de Trabajadores de Perú IPSS".

The Committee takes note, in particular, that the national social security pensions system administered by the Peruvian Institute of Social Security will continue to be in effect for its present members, unless they opt to be members of the new private pensions system. It also notes that new entrants to the labour market have the option of joining one or the other of the above systems. However, the Committee notes that once they have joined a pension fund administration (AFP), the wage-earners can only rejoin the IPSS national system during a transitional period of two years after the entry into force of the new law, that is to say until 6 December 1994.

Moreover, the Committee notes that the new private pensions system raises a certain number of problems from the point of view of the application of the Convention. As a result it wishes to draw to the attention of the Government the following provisions of the Convention:

1. Articles 3, 4 and 5 of the Convention. The Committee notes that pursuant to section 100, last paragraph, of Supreme Decree No. 206-92-EF, those workers who have contributed without interruption until the month preceding the contingency have the right to survivors' benefit. It would be grateful to the Government if it would indicate in its next report the manner in which it has given effect to the above-mentioned provisions of the Convention.

2. Article 12, paragraph 1 (financial participation of employers). The Committee requests the Government to indicate the measures taken or envisaged to complete Legislative Decree No. 25897 of 27 November 1992 so that employers shall contribute to the

financial resources of the insurance scheme for wage-earners, in accordance with this provision of the Convention.

3. Article 12, paragraph 4 (financial participation of public authorities). The Committee requests the Government to indicate the measures taken or envisaged to guarantee, within the framework of the SPP, the contribution of public authorities to the financial resources or to the benefits of the insurance scheme, as provided under this provision of the Convention.

4. Article 13, paragraph 1 (administration of insurance scheme). The Committee requests the Government to indicate the measures taken or envisaged to give effect, within the framework of the SPP, to this provision of the Convention which provides that "the insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit, or by state insurance funds".

5. Article 13, paragraph 4 (participation of insured persons in the management of insurance). The Committee asks the Government to indicate the measures taken or envisaged to be taken to give effect, within the framework of the SPP, to this provision which provides that "representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws or regulations".

6. Finally, the Committee notes that under section 48 of Legislative Decree No. 25897 of 1992 the risks of disability and death can be administered at the choice of the AFP, either by the AFP itself or by the insurance companies. It would be grateful to the Government if it would supply detailed information on the implementation in practice of the above-mentioned section 48.

II. Referring to its previous comments concerning Article 14, paragraphs 2 and 3, the Committee takes note with interest the legal texts communicated at its request by the Government in its report.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to Peru and Poland.

Convention No. 40: Survivors' Insurance (Agriculture), 1933

Peru (ratification: 1945)

See under Convention No. 39.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to Peru and Poland.

Convention No. 41: Night Work (Women) (Revised), 1934Central African Republic (ratification: 1960)

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

For many years the Committee has been pointing out to the Government that section 3 of Order No. 3759 of 25 November 1954 allows departures to be made from the ban on night work for women in circumstances which are not recognized by this Convention but are close to those authorized by Article 5 of Convention No. 89. The Committee again expresses the hope that the Government will do everything in its power to take, in the near future, the necessary measures which have long been announced to bring the law into harmony with the Convention. It asks the Government to indicate all progress made in that direction.

Venezuela (ratification: 1944)

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

The Committee notes that at its 257th (June 1993) Session, the Governing Body (document GB.256/15/16) approved the report of the Committee set up to examine the representation made by the International Organization of Employers (IOE) and the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS), under article 24 of the ILO Constitution, alleging non-observance by the Government of Venezuela, *inter alia*, of the Night Work (Women) Convention, 1919 (No. 4) (denounced by Venezuela when it ratified the Convention revising it (No. 41)).

In paragraph 12 of its report, the above Committee expressed the wish that the Committee of Experts on the Application of Conventions and Recommendations should examine the application of Article 3 of the Night Work (Women) Convention (Revised), 1934 (No. 41), drafted in the same terms as Article 3 of Convention No. 4, as regards labour legislation in Venezuela.

The Committee notes that no provision of the Organic Labour Act (Official Gazette 20.12.1990) bans night work for women in industry. Furthermore, under section 379 of the above Act, women workers may not receive differential treatment as regards pay and other working conditions, the only exception being standards specifically drawn up to protect their family life, health, pregnancy and maternity.

The Committee notes that, in its report, the Government refers to Regulation 208 of the Regulations of the Labour Act, which provides that women, whatever their age, may not be employed at night in any public or private industrial enterprise, or in any subsidiary of such enterprises.

The Committee also notes that under section 195 of the Organic Labour Act, night work is work performed between 7 p.m. and 5 a.m. The Committee recalls that under Article 2, paragraph 1 of the Convention, the term "night" signifies a period of at least 11

consecutive hours, including the interval between 10 o'clock in the evening and five o'clock in the morning.

The Committee asks the Government to indicate the measures adopted or envisaged to bring the legislation into line with Article 2, paragraph 1, of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

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

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

Algeria (ratification: 1962)

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

Article 2 of the Convention. With reference to its previous comments, the Committee notes the Government's statement that the interministerial technical committee set up to examine existing schedules of occupational diseases and to modify and update them as necessary, taking into account the points raised by the Committee of Experts, has completed its work. It also notes that the schedules will be forwarded to the Office as soon as they are published. The Committee therefore hopes that the implementing texts of Act No. 83-13 of 5 July 1983 will shortly be adopted and that the new schedule of occupational diseases will accordingly take account of the points raised concerning the schedules annexed to the Order of 22 March 1968 as amended, namely:

- (a) the list of the various pathological manifestations appearing under each "disease" in the left-hand column of the schedules in the national legislation should be of an indicative nature, as is the list of corresponding activities in the right-hand column of these schedules;
- (b) the wording of the items concerning poisoning by arsenic (schedules Nos. 20 and 21), manifestations due to the halogen derivatives of hydrocarbons of the aliphatic series (schedules Nos. 3, 11, 12, 26 and 27), poisoning by phosphorus and certain of its compounds (schedules Nos. 5 and 34) should be replaced by wording covering in general terms - like that of the Convention - all manifestations that may be caused by the above substances (wording of this kind would make it possible also to cover diseases that might be caused by the utilisation of new products, as the Government pointed out earlier);

- (c) the activities that may cause anthrax infection (schedule No. 18) should include the loading and unloading or transport of merchandise in general, so as to cover workers (such as dockers) who may unwittingly have transported merchandise contaminated by the anthrax spore.

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

Argentina (ratification: 1950)

The Committee notes the information supplied by the Government in its report. It also notes the new Act No. 24028 of 5 December 1991, which repeals Act No. 9688 of 1915, as amended, as well as Decree No. 1792 of 1992, which issues regulations under Act No. 24028.

Furthermore, the Committee notes the communication concerning the application of this Convention from the Congress of Argentinian Workers (CTA), dated 7 June 1993, a copy of which was forwarded to the Government for its observations on 29 June 1993. The CTA alleges in particular that Act No. 24028 respecting the compensation of industrial injuries substantially decreases the level of protection provided for workers. CTA states that the responsibility of the employer is presumed only in the case of an industrial accident, but that there is no legal assumption of the responsibility of the employer when an injury results from a disease the origin or aggravation of which is attributable to work; in such cases, the victim has to prove the harmful agent, the disabling sequelae, the causal link and the existence of the fault on the part of the employer.

The Committee notes that the Government's report does not contain a reply to the CTA's communication. However, it notes that although, by virtue of section 2(2) of Act No. 24028 of 1991, the employer's responsibility is presumed in the event of an industrial accident, this provision explicitly provides that the responsibility of the employer shall not be presumed with regard to diseases the origin or aggravation of which are attributable to work. The Committee wishes to recall in this respect that by ratifying the Convention the Government undertook, in accordance with Article 2, to consider as occupational diseases those diseases and poisonings produced by the substances set forth in the Schedule appended to the Convention, when such diseases or such poisonings affect workers engaged in the trades, industries or processes placed opposite in the said Schedule. It is precisely in order to avoid the worker having to prove the occupational origin of the disease, which can be particularly difficult in certain circumstances, that the Convention established this system of a double list setting out the diseases and the activities which may cause them. The Committee also recalls that Decree No. 4389/73 of 1973, issued under Act No. 9688 of 11 June 1915, which has now been repealed, had been adopted to respond to this requirement of the Convention.

In these conditions, the Committee hopes that the Government's next report will contain detailed information in reply to the communication from the Congress of Argentinian Workers, and that it

will indicate the measures which have been taken or are envisaged to give full effect to the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Bahamas (ratification: 1976)

The Committee notes with regret that for the third year in succession the Government's report has not been received, and that its three last reports contain no reply to previous comments. It must therefore repeat its previous observation which read as follows:

The Committee had noted the information furnished by the Government in its reports (received in September 1983 and January 1984) to the effect that steps were being taken to amend the third schedule to the National Insurance (Industrial Benefits) Regulations, 1975, issued under the National Insurance Act.

The Committee expressed the hope that the amendment would be made very shortly and that the above-mentioned schedule would be completed on the points that attention had already been called to, in order to give full effect to the Convention.

Article 2 of the Convention. 1. Item 1(1) and (p), of the third schedule to the 1975 Regulations mentions only some of the halogen derivatives of hydrocarbons of the aliphatic series (for example: tetrachlorethane and methyl bromide), whereas the Convention, which is drafted in general terms on this point, covers all the halogen derivatives of these hydrocarbons.

2. Item 2 of the third schedule to the 1975 Regulations, which concerns anthrax infection, does not mention among the activities likely to lead to this disease the loading and unloading or transport of merchandise in general, as the Convention does.

3. Item 7 of the third schedule to the Regulations, which relates to pathological manifestations due to X-rays and radioactive substances, covers only certain of the manifestations caused by exposure to X-rays, ionizing particles or other radioactive substances. The Convention, which is drafted in general terms on this point, covers, without enumerating them all, manifestations that may be caused by such exposure, including those that do not appear in the third schedule of the Regulations (for example: bronchial cancer, cancer of the thyroid; ocular lesions, cataracts, irritations, keratitis; possible lesions of the internal organs and the effects on the development of the embryo).

The Committee again requests the Government to indicate in its next report the measures taken or envisaged to bring the schedule of the national legislation into full conformity with the Convention on the above-mentioned points.

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

Greece (ratification: 1952)

With reference to its previous comments, the Committee takes note of the adoption of Act No. 2048/92 reforming the social security scheme, and notes that it contains no provisions concerning the updating of the list of occupational diseases. In this connection, the Government again states that the question of bringing section 40 of the Regulations on Occupational Diseases of the Social Security Institute (IKA) of 16 January 1979 into conformity with the Convention will be referred for examination to a special committee to be set up by the IKA. The Committee recalls that the Government has been stating for several years that this examination is to take place. In these circumstances, it must again urge the Government to ensure that the necessary steps are taken in the near future to complete the above-mentioned list of occupational diseases so as to take into account the following points, in accordance with Article 2 of the Convention:

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

The Committee asks the Government in its next report to supply information on any progress made in this respect.

Guyana (ratification: 1966)

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

The Committee notes the information provided by the Government in its report and to the Conference Committee in 1992. It notes in particular that its previous comments were taken into consideration and that recommendations have been put up for examination by the Government based on the assistance and advice received from the ILO. The Committee therefore once again hopes that measures will be taken in the very near future to

complete the list of occupational diseases attached to Regulation No. 34 of 1969, taking into account the following points:

- (a) Nos. 1(x), (xi), (xii) and (xiv) on this list are to be replaced by a heading containing in general terms all halogen derivatives of hydrocarbons of the aliphatic series;
- (b) No. 7, which refers to certain disorders due to radiation should include all pathological manifestations due to radium and other radioactive substances or X-rays and the list of processes likely to induce these should be completed;
- (c) Nos. 1(i) and (v) relating to poisoning by lead and its compounds and mercury and its compounds should include lead alloys and mercury amalgams respectively;
- (d) No. 1(iii), which refers to poisoning by phosphorus and its compounds, should include the inorganic compounds of phosphorus;
- (e) to No. 2 should be added among the processes likely to induce anthrax infection, all loading and unloading or transport of merchandise of any kind;
- (f) silicosis with or without pulmonary tuberculosis and the industries or processes involving the risk of this infection should also be added to the list.

The Committee also hopes that an explicit reference to the direct consequences of poisoning caused by arsenic and benzene (Nos. (iv), (vii) and (viii) of No. 1 of the list attached to Regulation No. 34 of 1969) will be included in the list of occupational diseases.

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

Haiti (ratification: 1955)

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

In reply to the Committee's previous comments, the Government states that it has taken note of the lack of machinery for prevention, supervision and follow-up and collection of statistical data on occupational diseases and the number of workers in high-risk occupations and industries. The Government states that there are no technical staff specializing in occupational diseases to set up such machinery and refers to the need for ILO technical assistance in this area.

The Committee takes note of this information. It hopes that, in due course, appropriate measures will be taken, with technical assistance from the ILO if necessary, to establish an infrastructure which, inter alia, will gather information, including statistics, on the practical application of the Convention, in accordance with point V of the report form adopted by the Governing Body.

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

New Zealand (ratification: 1938)

For a number of years the Committee had been drawing the Government's attention to the fact that the system of "full coverage" provided by the New Zealand legislation, which leaves the burden of proof of the occupational origin of a disease to the worker, while it may cover a greater number of diseases, is not in accordance with the Convention since, under this system, the diseases listed in the schedule to the Convention are not presumed to be occupational when they are contracted by workers engaged in the trades or industries listed in this schedule. In this respect the Committee had also indicated to the Government that one of the solutions might consist of the ratification of Convention No. 121, which provides for, *inter alia*, the system of "full coverage" in its Article 8(b), and the ratification of which would ipso jure involve the denunciation of Convention No. 42.

In its last report the Government states that the Accident Compensation Act of 1982 has now been repealed by the Accident Rehabilitation and Compensation Insurance Act of 1992. It adds that rather than listing occupational diseases covered by the scheme, the new Act provides a much clearer and more easily interpreted definition of occupational disease and therefore is able to cover a far wider group of diseases than those listed in the schedule to the Convention. The Government acknowledges that the occupational origin of a disease must however be established before compensation under the new Act may be claimed. As regards Convention No. 121, the Government states that its ratification is likely to raise more compliance issues under the new legislation and therefore is not a current likelihood.

The Government has also supplied with its report comments made by the New Zealand Council of Trade Unions (NZCTU), according to which section 7 of the new Act of 1992, as compared to the previous legislation, introduces a more restrictive definition of occupational disease and of criteria for coverage and places the burden of proof on claimants in respect of all diseases, including those listed in the schedule to the Convention, in breach of its Article 2. The NZCTU also indicates that there is no equivalent in the 1992 Act for the provision of section 28(5) of the 1982 Act, which enabled conditions falling outside the scope of occupational disease to be treated as "personal injury by accident" if the manner in which that disease was contracted fell within the ordinary meaning of those words.

The Committee notes the information provided by the Government as well as the comments made by the NZCTU. It has also examined the new Accident Rehabilitation and Compensation Insurance Act of 1992. The Committee notes in this respect that the new Act of 1992, in particular its section 7 concerning coverage of personal injury caused by gradual process, disease or infection arising out of and in the course of employment, has not brought about changes in the application of the Convention to the extent that it still does not contain a list of occupational diseases together with a list of operations liable to cause them, in accordance with the schedule to the Convention, and does not therefore establish the presumption of the occupational origin of such diseases. Moreover, whereas the 1982 Act covered any disease which "is or was due to the nature of any employment" as if

the disease were a personal injury by accident arising out of and in the course of employment (section 28(1)), the new legislation lays down certain restrictive criteria in defining cases where a "personal injury shall be regarded as being caused by gradual process, disease, or infection arising out of and in the course of employment" (section 7(1) of 1992 Act). In view of the above provisions, it therefore appears that the conditions laid down by the 1992 Act for compensation of personal injuries caused by gradual process, disease, or infection arising out of and in the course of employment are likely to make even more difficult the compensation of workers for occupational diseases covered by Articles 1 and 2 of the Convention. The Committee notes however that the matters raised by the NZCTU are currently being studied by the Government and will be given serious consideration. In this situation the Committee hopes that the next report of the Government will contain all information on the above-mentioned issues. It once again urges the Government to re-examine the question and to take the necessary measures to bring the national legislation into full conformity with the Convention by adopting a list of diseases and corresponding trades covering at least those enumerated in the schedule to the Convention, so as to provide for the presumption of their occupational origin.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Suriname (ratification: 1976)

In reply to the Committee's previous observation, the Government states that it has under study a project to revise the labour legislation with the technical assistance of the ILO. The Committee therefore once again expresses the hope that in revising this legislation the Government will not fail to complete the list of occupational diseases established by section 25 of Decree No. 145 of 1947, as amended, so as to include among the activities likely to cause anthrax infection (section 25(c)) the "loading and unloading or transport of merchandise" in general, as provided by the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Comoros, Mauritius, South Africa.

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

Dominican Republic (ratification: 1935)

The Committee notes the adoption of the Labour Code (Act No. 16-92 of 29 May 1992) which does not maintain the prohibition upon employing women in underground work. It notes the statement by the

Government that there are no underground mines in the Dominican Republic, since the extraction of minerals takes place in open mines.

The Committee requests the Government to indicate the measures which have been taken or are envisaged to ensure that national law is in conformity with the international commitments which have been undertaken.

South Africa (ratification: 1936)

The Committee notes the information supplied in the Government's report.

The Committee notes that, in accordance with section 32(2) of the Minerals Act No. 50, 1991, the employment of females in underground work is forbidden.

Furthermore, the Committee notes the Government's indication in its report that the South African Employers' Consultative Committee on Labour Affairs (SACCOLA) made observations regarding the practical implementation of the conditions prescribed by the Convention and on the application of the national law by which the Convention is implemented. The Committee also notes from the Government's report that the observations made by the Chamber of Mines on the implementation of the Convention has been taken account of in its report.

The Committee requests the Government to supply information on any exemptions which may have been authorized under Article 3 of the Convention and giving particulars or an estimate of the number of women affected. It also requests the Government to supply the substance of the observations made by SACCOLA and the Chamber of Mines.

Spain (ratification: 1958)

The Committee notes the Government's report.

The Committee notes ruling No. 229/1992, of 14 August 1992, of the Constitutional Court, which recognizes the right of women to be employed as mining assistants, on an equal footing with men who passed the corresponding entry tests at the same time, thereby recognizing their right not to be discriminated against on the grounds of their sex. The Committee recalls that, in accordance with Article 2 of the Convention, no female, whatever her age, shall be employed on underground work in any mine.

The Committee hopes that the Government will examine the situation in respect of the obligation deriving from the ratification of the Convention, to ensure that no ambiguity may persist in this respect. The Committee requests the Government to supply information on this point.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Brazil, Guinea-Bissau, Malta and Slovakia.

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

Convention No. 50: Recruiting of Indigenous Workers, 1936

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

Convention No. 52: Holidays with Pay, 1936

Myanmar (ratification: 1954)

In its previous observation, the Committee noted the indication in the Government's report for the period ending 30 June 1992 that the Factories Act (1951), the Shops and Establishments Act (1951) and the Leave and Holidays Act (1951) had been reviewed and redrafted taking into consideration the Committee's comments and that the revised texts were undergoing final review by the Laws Security Central Body. In its latest report, the Government indicated that the Leave and Holidays Act was still under review by the Laws Security Central Body and does not mention the status of the other revised texts. The Committee would be glad if the Government would supply details of the steps being taken in this respect. It trusts that the revised texts will be adopted and transmitted to the Office in the very near future and that they will ensure the application of the Convention to all undertakings set forth in Article 1 of the Convention, particularly those small establishments, shops and offices not currently covered by the legislation, as well as building and public works and road transport undertakings, especially on the following points:

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

Article 4. Any agreement to forego or relinquish the right to the minimum annual holiday with pay laid down in the Convention (i.e. six working days, or, in the case of persons under 16 years of age, 12 working days) must be void, whereas section 4(3) of the same Act allows agreements to accumulate earned leave.

Panama (ratification: 1958)

The Committee notes with interest the information provided by the Government in reply to its previous observation and the detailed study on payment in kind undertaken with respect to the application of Article 3 of the Convention. It requests the Government to keep the Office informed of any specific examples which may be encountered within the framework of inspection visits demonstrating the manner in

which vacation pay is calculated when a portion of the salary includes payment in kind, particularly as concerns the undertakings covered in Article 1 of the Convention.

Article 2. The Committee notes the indication in the Government's report that, by virtue of section 56 of the Labour Code, the 30-day leave entitlement provided to workers under section 54 may be divided into not more than two parts of 15 days each. It recalls, however, that section 59 of the Code permits the accumulation of two leave entitlements by agreement between the employer and the worker. There is no requirement set out in the legislation as yet to ensure that workers covered by the Convention take an annual holiday with pay of at least six working days. The Government has indicated in its report that it will study the amendment which was drafted in 1981 to ensure the application of the Convention in this regard. The Committee trusts that the Government will take the necessary measures in the near future to bring national legislation into conformity with the Convention and requests the Government to indicate, in its next report, the progress made in this regard.

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

Convention No. 53: Officers' Competency Certificates, 1936

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

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

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

Liberia (ratification: 1960)

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

In its previous observation the Committee referred to Article 1, paragraph 2 (scope of the protection to be extended to vessels of 25 tons and above); Article 2, paragraph 1 (liability of the shipowner in cases of sickness or injury occurring between the dates specified in the articles of agreement for reporting for duty and the termination of the engagement); Article 2, paragraph 3 (exclusion of the shipowners' liability in respect of sickness or death directly attributable to sickness if at the time of the engagement the person employed refused to be medically examined); and Article 6, paragraph 2(d) (necessity of

obtaining the competent authorities' approval for the repatriation of a seaman to a port other than where he was engaged or the voyage commenced or to a port other than in his own country). The Committee hopes that progress will be made in future in the enactment of legislation on these points and that details will be provided.

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

Panama (ratification: 1971)

For several years the Committee has been pointing out the need for the Government to adopt measures to guarantee the application of the following provisions of the Convention: Article 2 (the requirement that the shipowner must cover the risks of sickness or injury during the period between the date specified in the articles of agreement for reporting for duty and the termination of the engagement); Article 3(b) (the requirement that shipowners must supply board and lodging); Article 7 (the requirement that the shipowner shall be liable to defray burial expenses in case of death occurring on board or on shore); Article 8 (the requirement that the shipowner must safeguard property left on board by sick, injured or deceased persons). In this connection, the Committee notes with interest from the Government's indication in its report on Convention No. 73 that the Legislative Assembly in plenary has adopted the Bill regulating employment at sea and on waterways. According to the Government's indication in its report on Convention No. 55, the Bill incorporates the points raised by the Committee. It asks the Government to provide a copy of the text that was adopted.

Tunisia (ratification: 1970)

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

Articles 4 and 5 of the Convention (in conjunction with Article 11). The Committee notes that the Bill to amend sections 93, 95 and 110 of the Maritime Labour Code in order to bring them into conformity with the provisions of the Conventions ratified by Tunisia, and particularly Convention No. 55, has still not been adopted. The Committee recalls that the Government already enclosed with its report for the period 1982-83 a copy of the Bill drawn up by the Ministry of Transport and Communications and indicated at the time that the Bill would shortly be submitted to the Chamber of Deputies.

The Committee trusts that the above-mentioned Bill which, according to earlier information from the Government, should make it possible to ensure that the provisions of the Convention also apply to seafarers engaged by the voyage, will be adopted shortly. It hopes that the Government's next report will contain detailed information on progress made in this respect.

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

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

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

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

Liberia (ratification: 1960)

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

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

The Committee hopes that the Government will take the necessary action to ensure the application of the Convention in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Grenada, United Republic of Tanzania (Zanzibar) and Turkey.

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

Pakistan (ratification: 1955)

In its previous comment, the Committee noted the adoption of the Employment of Children Act, 1991, which in section 2(iii) defines "child" as a person who has not completed his 14th year of age. Section 19 of the Act prescribes that the definition of "child" contained in the Factories Act, 1934, and the Mines Act, 1923, shall be deemed to be amended in accordance with the definition in section 2 of the above Act. The Factories Act, 1934, and the Mines Act, 1923, established the minimum age for access to employment at 15 years of age, in accordance with Article 7, paragraph 4(a) and (b), of the

Convention. In a communication dated 3 August 1992, the Pakistan National Federation of Trade Unions considered that this has resulted in a contradiction regarding the minimum age for access to employment established in the legislation.

The Government states in its report that children having attained the age of 14 years but not exceeding the age of 18 years fall under the category of "adolescent", as defined in the 1991 Act, and that the provisions of this Act are in addition to, and not in derogation of, the provisions of the Mines Act, 1923, and the Factories Act, 1934, and that therefore the rights of children under the age of 15 years are adequately protected and guaranteed. The Government also indicates the provincial and federal authorities which are responsible for implementing and ensuring the observance of the legislation relating to child labour.

The Committee takes due note of this information. Nevertheless, it recalls the terms of section 19 of the 1991 Act, under which the terms "child" and "adolescent" contained in the Acts of 1923 and 1934 above shall be deemed to have been amended in accordance with the definitions in section 2 of the 1991 Act. This results in an uncertainty with respect to the minimum age for admission to work covered by the Mines Act, 1923, and the Factories Act, 1934. The Committee requests the Government to indicate the measures which have been taken or are envisaged to ensure that children under the age of 15 years shall not be employed or work in mines, quarries and other works for the extraction of minerals from the earth, and in other dangerous or unhealthy occupations, in accordance with Article 7, paragraph 4, of the Convention.

* * *

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

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

Algeria (ratification: 1962)

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

1. The Committee noted the information supplied by the Government in its latest reports. It noted with interest Executive Decree No. 91-05 of 19 January 1991 respecting the general safety and health provisions to be applied in the working environment, a copy of which was supplied with the Government's last report. The Committee noted that certain provisions of the above Decree partly give effect to some provisions of the Convention, including Article 8, paragraph 2(a) and (c) (work platforms and gangways to be closely boarded and suitably fenced), Article 9, paragraph 1 (openings in floors or working platforms to be provided with suitable means to prevent the fall

of persons or material), and Article 12, paragraph 1 (hoisting machines and tackle to be examined periodically).

2. Further to its previous comments, the Committee noted from the information supplied by the Government in its last report that special regulations to take account of certain standards covered by the Convention were in the course of being promulgated. The Committee refers to the draft Decree respecting specific provisions for the building and public works sector and the draft Decree respecting inter-enterprise health and safety committees in the building and public works sector, and hopes that they are reproduced in the above-mentioned regulations and that the Government will do everything in its power to ensure that the regulations are adopted very shortly.

3. The Committee noted from the Government's last report that statistics of industrial accidents for the years 1986-90 were in the process of being published. The Committee hopes that, in accordance with Article 6 of the Convention, the Government will communicate to the ILO the latest statistical information relating to the number and classification of occupational accidents in the building industry.

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

Central African Republic (ratification: 1964)

The Committee notes the Government's report for the period ending 30 June 1992.

1. With reference to the comments which it has been making for a number of years, the Committee once again draws the Government's attention to the need to adopt legislation to give effect to the provisions of the Convention. It once again notes that the necessary measures have not yet been taken to give effect to the Convention and, in particular, that the draft texts prepared for this purpose following the direct contacts which took place in 1978 and 1980 with the competent government departments are still under examination. The Committee once again hopes that the necessary texts will be adopted and that the Government will be in a position to supply copies of them in the very near future.

The Committee hopes that the above texts will give effect to the following provisions of the Convention: Article 7, paragraphs 1, 2 and 5 to 8 (construction, use and inspection of scaffolds), Article 8, paragraphs 1(c) and 2(a) and (b) (standards for the construction and maintenance of platforms), Article 9, paragraph 2 (suitable precautions when persons are employed on a roof), Article 10, paragraphs 3 to 5 (adequate lighting of all workplaces; precautions to prevent danger from electrical equipment; rules regarding the stacking of material), Article 12, paragraph 2 (periodical examination of chains and similar devices), Article 13, paragraph 2 (prescription concerning the age of persons in control of hoisting machines or giving signals to operators), Article 14, paragraphs 1 to 3 (safe

working load to be ascertained and plainly marked), Article 16 (use of personal safety equipment), Article 17 (adequate measures to ensure prompt rescue of persons working in proximity to any place where there is a risk of drowning) and Article 18 (adequate provision to ensure prompt first-aid treatment of all injuries sustained during the course of work).

2. Article 6. For a number of years, the Committee has been noting the absence of statistical information in the Government's reports relating to the number and classification of accidents occurring in the building industry. The Committee notes the Government's statement in its report that the Central African Social Security Office, which is responsible for matters relating to employment injury, supplies quarterly statistics and that the process of analysing the data is under way and a bulletin will be forwarded subsequently. The Committee hopes that statistical information will be supplied in the near future.

Mauritania (ratification: 1963)

1. Article 13, paragraph 2, of the Convention. With reference to its previous comments, the Committee notes with interest that Order No. 030 of 26 May 1992 establishes the minimum age of persons in control of hoisting machinery or responsible for giving signals to the operators.

2. Article 6. For a number of years, the Committee has been noting that States which ratify the present Convention undertake to communicate to the International Labour Office the most recent statistical information on the number and classification of accidents occurring to persons occupied on work within the scope of the Convention. It notes that the Government has not provided this information since 1967. In its report concerning the application of the Convention for the period ending 30 June 1989, the Government stated that the statistical information requested was not available and that it was its intention to forward such information in the near future. The Committee hopes that this information will be supplied in the near future and that it will also show the number of persons occupied in the building industry and the number of persons who are covered by the statistics.

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

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

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

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

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

Convention No. 67: Hours of Work and Rest Periods (Road Transport), 1939

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

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

Panama (ratification: 1971)

The Committee notes the information supplied in reply to its previous observations, and the draft text of the Labour Act respecting navigable seaways and waterways which, according to the information contained in the report on the application of Convention No. 73, was adopted by the plenary sitting of the Legislative Assembly. The Committee would be grateful if the Government would supply a copy of the text which was adopted and additional information on the following points.

Article 1 of the Convention. The Committee notes that Chapter Eight of the above text respecting fishing and coastal vessels contains no specific provision relating to food and catering on board coastal vessels. Moreover, the provisions contained in Chapter Five on accommodation and food are of a general nature and do not ensure that the Convention is applied to coastal vessels, even though they are seagoing. If the above draft text was adopted in its current state, the Committee would be grateful if the Government would state whether, as a consequence, any legislation relating to the application of the Convention is applicable to the above vessels.

Article 2(a) and Article 5, paragraph 2(a). The Committee notes the information concerning the application of these provisions of the Convention, in respect of which reference is made to sections 76, 77, 79 et seq. of the above draft text. However, it notes that the above sections refer to requirements which are to be set out in the internal rules of the vessel, to be approved by the Ministry of Labour and Social Welfare, and that they form the legal basis for the establishment of standards relating to the inspection of food and catering and the preparation of an annual report in this respect, as well as for the preparation of recommendations for shipowners. The Committee once again hopes that the necessary measures will be taken in the near future to regulate the provision of food and water on board ship, in accordance with these provisions of the Convention.

Article 3. The Committee notes that the Government's report contains no information on the application of this provision of the

Convention. It hopes that its next report will contain information on the measures which have been adopted to secure the cooperation of the organizations of shipowners and seafarers in the application of the Convention and the results achieved in this respect.

Article 10. The Committee notes the list of companies authorized by the General Directorate of Consuls and Shipping to issue technical certificates covering the inspection undertaken in regard to the Convention, and the fact that around 90 per cent of the Panamanian Merchant Fleet possesses a current certificate of the inspection of crew accommodation and catering. The Committee would be grateful if the Government would supply a copy as soon as possible of the most recent reports published and indicate the bodies and persons concerned to which they are transmitted.

Article 11. The Committee notes the information supplied concerning vocational training courses for the catering staff of seagoing vessels which were provided between 1987 and 1992, and planned for 1993, by the National Vocational Training Institute (INAFORP), and the fact that the Panamanian Institute of Labour Studies (IPEL) is directing and financing various training courses and seminars for seafarers and officials through the National Nautical School and various seafarers' organizations, in addition to the specialized courses provided through the INAFORP. The Committee would be grateful if the Government would supply details on the contents of these courses in respect of both training and further training.

[The Government is asked to report in detail for the period ending 30 June 1994.]

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

Convention No. 71: Seafarers' Pensions, 1946

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

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

Egypt (ratification: 1982)

Article 5, paragraph 1, of the Convention. Further to its previous comments, the Committee notes with interest the information that the Ports and Lighthouses Authority has introduced a medical certificate that must be renewed after two years at the most and the Tripartite Committee on International Maritime Labour Conventions has recommended that a ministerial decree be adopted to this effect. The Committee hopes the Government will provide the text of the decree

with its next report and that it will ensure the full implementation of this Article of the Convention.

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

Convention No. 74: Certification of Able Seamen, 1946

A request regarding certain points is being addressed directly to Guinea-Bissau.

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

Spain (ratification: 1971)

I. Article 2 of the Convention. In its previous comments, the Committee noted the allegations made by the General Workers' Union (UGT) and the Trade Union Confederation of Workers' Commissions (CC.00), stating that the Convention lacks legal coverage in the country; that, in practice, verification as to whether the young person has been considered fit for work by a qualified physician is not required; that the authority competent for sending the document attesting fitness for employment of the young person and defining conditions of work, had not been determined.

The Committee noted the indications of the Government according to which the medical attestation for young persons working in industrial activities is required in some cases by the relevant labour ordinances, the Act on the hiring of labour of 1944 (section 178) and Decree No. 1036 of 1959 and its Regulations. The fitness for work of young persons is attested by means of an "optional certificate" issued by the corresponding medical practitioner. It also indicates that the requirement of medical examinations is established more specifically in certain collective agreements. The Government also referred to the Bill on occupational health, and indicates that medical examinations are to be carried out when the worker so requests or gives his consent.

The Committee noted the comments made by the General Workers' Union (UGT) in 1992, in which the Union reiterated that the general provisions on this subject do not ensure adequate protection for young people and that the collective agreements on their own do not offset this inadequacy. For its part, the Trade Union Confederation of Workers' Commissions (CC.00) indicated that non-observance of the Convention is particularly serious in Spain in view of the high rate of unemployment in the country, especially among young people, and that the Bill on occupational health, makes no mention of the medical examination of young persons.

The Committee observed that the Act on the hiring of labour of 1944 which provided, in section 178, that the medical examination of young persons was compulsory, was repealed by Act No. 8 of 1980 issuing the Workers' Charter. In this connection, the Government stated that the Act on the hiring of labour may continue to be partly applied as a regulation under final provision No. 4 of the Workers' Charter which establishes that provisions of laws that regulate matters not covered by the Charter itself shall remain in force as regulations.

The Committee also noted from the comments made by the two above-mentioned trade union organizations that it is not clear which national laws give effect to the requirements of the Convention and that in practice, the provisions of the Convention are not applied. In its opinion, the fact that there is no obligation explicitly laid down in recent laws and that there is uncertainty as to whether section 178 and the requirement laid down in it apply may well be linked to the fact that the requirement of the Convention is not observed in practice. Moreover, it is symptomatic that the texts of the various collective agreements supplied by the Government contain provisions on annual medical examinations for all workers; none of them refers to the medical examination for the admission of young people to employment.

The Government also refers to section 6, II(a), of Decree No. 1036 to reorganize enterprise medical services, under which it is a function of company doctors to provide medical attestation for admission to employment for the purpose, inter alia, of establishing fitness. The Committee draws the Government's attention to the fact that, in accordance with the Convention, the requirement of a detailed medical examination in order to attest fitness for the employment of young persons must be explicitly established. Such examination is particularly important in order to ensure the special and specific protection that the Convention affords to this category of worker.

The Committee asked the Government to examine the issues that have been raised in the light of the Convention and to inform it on the measures taken or under consideration to ensure the observance thereof. The Committee expressed the hope that the adoption of the Act on occupational health would make it possible for the national legislation and practice to be brought into line with the Convention.

Article 1, paragraph 1. In earlier comments the Committee asked the Government to take the necessary measures to apply the provisions concerning the medical examination for fitness for employment to young persons who, without being wage earners are employed in family undertakings, as provided for in the Convention. In this connection, the Committee noted that the General Workers' Union (UGT) has stressed in its comments the absolute lack of protection of these young persons who are not covered by the regulations on occupational health.

In this respect, the Government indicated that it actually admits that young persons who are not engaged on account of an employer are excluded from the scope of the provisions on medical examination.

The Committee hopes that when the necessary measures are taken to give statutory effect to the requirement of a medical examination for fitness for employment, such requirement will be extended to young persons working in family industrial undertakings.

II. The Committee notes the comments of the Trade Union Confederation of Workers' Commissions (CC.00) of 21 October 1993 which have been supplied to the Government, which alleged once more that the Convention was not being applied at all. According to the organization referred to, the Government often raises in its defence the regulations on medical examination to prevent occupational diseases (p. e.g. section 191 of the consolidated text on social security and regulations for development), but these examinations apply only to undertakings that have a risk of occupational disease and are not applicable to the majority of sectors and undertakings as required by the Convention. The Committee requests the Government to supply information on all the points raised in the observation.

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

Convention No. 78: Medical Examination of Young Persons (Non-Industrial Occupations), 1946

Spain (ratification: 1971)

I. Article 2 of the Convention. The Committee refers the Government to the comments in its observation on the application of Convention No. 77.

Article 7, paragraph 2. The Committee noted that according to the comments presented by the General Workers' Union (UGT) and the Trade Union Confederation of Workers' Commissions (CC.00), failure to comply with the requirement of a medical examination for admission to employment for young persons is much more serious in the case of young persons who are engaged on their own account in non-industrial work, employed in domestic service or are engaged on their own account or the account of their parents in itinerant trading or in any other occupation carried on in the streets, because the legislation has not determined the measures of identification for ensuring the application of a system of medical examination to such young persons.

The Committee noted the indications contained in the Government's report concerning the sanctions established in Act No. 8 of 1988 for non-observance of provisions of laws, regulations or agreements which determine high or imminent risks for the personal safety or health of the workers; under the same Act, failure to carry out initial and periodic medical examinations for workers constitutes a serious violation.

The Committee observed that the general nature of such provisions does not preclude but rather increases the need to establish expressly by law, in conformity with the Convention, the requirement of a medical examination for fitness for employment of young people engaged in non-industrial occupations and to determine the measures of identification necessary for ensuring the application of the system to such young people.

The Committee hopes that the Government will take into consideration the matters that have been raised concerning the situation of national laws and practice with regard to the application of the Convention and that it will indicate the measures taken or envisaged to ensure that the Convention is observed.

II. The Committee notes the comments of the Trade Union Confederation of Workers' Commissions (CC.00) of 21 October 1993 which have been supplied to the Government, which alleged once more that the Convention was not being applied at all. According to the organization referred to, the Government often raises in its defence the regulations on medical examination to prevent occupational diseases (p. e.g. section 191 of the consolidated text on social security and regulations for development), but these examinations apply only to undertakings that have a risk of occupational disease and are not applicable to the majority of sectors and undertakings as required by the Convention. The Committee requests the Government to supply information on all the points raised in the observation.

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

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

Requests regarding certain points are being addressed directly to the following States: Cuba and Peru.

Convention No. 81: Labour Inspection, 1947

Bahamas (ratification: 1976)

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

The Committee recalls that the Convention is applied by custom and practice and that no progress has yet been made in adopting legislative measures to give effect to its provisions. The Committee trusts that appropriate legislation will be adopted in the near future.

Articles 20 and 21 of the Convention. The Committee notes that no report on the activities of the inspection services has yet been drawn up. Recalling the importance that it attaches to annual inspection reports, the Committee requests the Government to take the necessary measures to ensure that these reports, containing information on the subjects set out in Article 21, are published and transmitted to the ILO within the time-limits set forth in Article 20.

Brazil (ratification: 1989)

With reference to its previous comments, the Committee notes the Government's brief report which refers to measures taken for streamlining and redirecting the activities of the labour inspection service, and to information supplied in its previous report concerning the application of all articles of the Convention. The Committee asks the Government to indicate in detail how the measures taken or envisaged relating to the functioning of the inspection system ensure or will ensure that full effect is given to the provisions of the Convention, taking account in particular of the points raised in the above-mentioned comments. In this connection it asks the Government to submit comments on the observations of the "Gaucha" Association of Labour Inspectors (AGITRA), the Association of Labour Inspectors of Minas Gerais (AAIT/MG) and the National Union of Labour Inspectors (SINAIT) on the application of the Convention, and on the points raised previously by AGITRA. The latter refers to difficulties encountered by the labour inspection service with regard to conditions of work and the staff needed to carry out inspection activities, and their respective consequences on the number of serious violations of labour laws and on the fight against the most serious cases such as forced labour (including child labour), as well as the withholding of wages and other benefits due to employees (such as adequate food and accommodation).

The Committee once again reminds the Government of the Convention's requirements concerning the function of labour inspectors in securing the enforcement of legal provisions relating to the conditions of work and workers' protection, such as provisions on hours of work, wages, health and welfare, and the employment of young persons (Article 3(1)(a)); the need for inspection staff to enjoy legal status and conditions of service that assure them of stability of employment and independence (Article 6); the need to associate specialists in medicine and engineering and other experts with the work of inspection (Article 9); and the need to ensure that the number of labour inspectors and the practical conditions of their work are sufficient to ensure that workplaces are inspected as often and as thoroughly as necessary to ensure the effective application of the relevant legal provisions (Articles 10, 11 and 16).

The Committee also notes the observations made by the Union of Workers of the Triunfo Chemical and Petrochemical Industries (SINDIPOLO) referring, in particular, to the application of Convention No. 148. It would be grateful if the Government would submit any comments it deems appropriate on these observations, taking account of Article 5(b) of the present Convention which calls for cooperation between labour inspectors and employers and workers or their organizations.

The Committee again raises other matters in a direct request.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Central African Republic (ratification: 1964)

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

Articles 10, 11, paragraphs 1(b) and 2, and 16 of the Convention. Further to its previous observations, the Committee notes that in general the labour inspectorate lacks both the transport and the personnel necessary to discharge its duties effectively. It notes with regret that due to budgetary restrictions the draft designed to ensure the reimbursement of travelling expenses of labour inspectors has not yet been adopted, and the vehicles previously made available have been withdrawn. The Committee hopes the Government will indicate what steps are being taken or envisaged to ensure that workplaces are inspected as often and as thoroughly as necessary.

Articles 20 and 21. The Committee notes that despite earlier statements by the Government no annual labour inspection reports have been supplied as required by the Convention. It hopes the Government will shortly take the necessary measures so that annual labour inspection reports containing detailed information on all the subjects listed in Article 21 will be published and transmitted to the Office within the time laid down in Article 20.

Chad (ratification: 1965)

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

Articles 10, 11 and 16 of the Convention. The Committee notes that shortages of material means and qualified staff persist in hampering the application of these Articles of the Convention and that there has been no resolution of the difficulties commented upon by the Committee for several years. The Committee recalls the requirements as to an adequate number of inspectors with all necessary facilities (especially transport). It asks the Government to indicate in its next report any measures whatsoever taken to make the most out of the resources available, if not to increase resources.

Article 12, paragraph 2, and Article 13, paragraph 2(b). Since 1968 the Committee has been drawing the Government's attention to the need to empower inspectors, on the one hand, to decide whether or not they should notify the employer of their presence at the workplace and, on the other, to make or have made orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers. In 1990, the Committee noted that a committee had been established to revise the Labour and Social Welfare Code with a view to bringing national legislation into conformity with the Convention, and that the Code had been revised with the assistance of the ILO. The Committee now notes that the revised

Code has not yet been adopted, although it is being given priority. It also notes the indication in the Government's most recent report, repeating information provided in 1971, that labour inspectors may make orders with immediate executory force. Since 1972, the Committee has observed that section 202 of the Labour and Social Welfare Code, as applied, empowers the labour inspector to give an employer no less than two days to remedy a situation, even when it is dangerous to the health or safety of the workers in cases of extreme urgency, and that this is not sufficient to deal with imminent dangers, such as a risk of a fall of earth, asphyxia or explosion, which may materialise before the minimum time-limit of two days has expired. The Committee is bound, once again, to express the hope that the Government will soon be able to report that the necessary changes to legislation have been made. It would in the meantime be grateful if the Government would provide information on the manner in which the existing provisions are applied in practice.

Articles 20 and 21. In reply to the Committee's earlier comments the Government states that the annual reports on inspection are being completed. The Committee hopes that the Government will ensure that, in future, annual inspection reports are drawn up containing information on all the subjects listed under Article 21. It trusts that these reports will be published and communicated to the ILO within the period fixed in Article 20.

Comoros (ratification: 1978)

Further to its previous comments, the Committee hopes a report will be supplied, replying to the questions raised in a direct request.

Egypt (ratification: 1956)

Further to its previous comments made over many years, the Committee notes, from the Government's report covering the period ending June 1993 and from the statistical information provided, the information that a report on the activities of the inspection services for the years 1990-91 has been passed on to the Government and that the Government is preparing the annual inspection report for the period ending 30 June 1993 which it will communicate to the Office when completed. It also notes the annual report on safety at work containing statistics of occupational diseases and serious industrial accidents. It further notes that Ministerial Decree No. 33 of 1991 provides for the powers and duties of the Ministry of Labour including the labour inspectorate. The Committee underlines the importance of duly prepared inspection reports at the national and international levels for the assessment of whether workplaces are being inspected as often and as thoroughly as necessary, in accordance with Article 16 of the Convention. It is bound to observe that the Convention requires these data to be published regularly and, as indicated at paragraph 277 of the Committee's 1985 General Survey on Labour Inspection, widely disseminated among the authorities and administrations

concerned and among workers' and employers' organizations, and placed at the disposal of all interested parties. The Committee also notes that the statistics of penalties imposed which are required under Article 21(e) have not been provided. It trusts the Government will indicate the measures taken or envisaged to ensure that the central inspection authority publishes and transmits to the ILO a regular annual inspection report within the time-limits set by Article 20, and containing all the information required by Article 21 of the Convention.

France (ratification: 1950)

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

1. Further to its previous comments, the Committee takes due note of the information contained in the report on labour inspection in 1990. However, it notes once again that the Government's report under article 22 of the Constitution has not been received. The Committee recalls the obligation to supply a report on the application of the Convention in accordance with the report form adopted by the Governing Body of the ILO. This report, which is a different document from the annual report on the inspection services due under Article 20 of the Convention, should supply all the information required under the report form, including replies to the comments made by the Committee and an indication of the representative organizations of employers and workers to which copies of the report have been transmitted in accordance with article 23, paragraph 2, of the Constitution. The Committee trusts that the Government will not fail to supply the report due under article 22 of the Constitution in time for it to be examined at its next session.

2. The Committee notes with regret that no reply has been received to its previous comments concerning the observations made in 1989 and 1990 by the French Democratic Confederation of Labour (CFDT) and the General Confederation of Labour (Union of Social Affairs/Federation of the Public Service/Labour Inspectorate for Transport). These observations concern the application of Articles 3, paragraph 2, and 10, of the Convention and relate to the sufficiency of the number of inspectors responsible for ensuring the effective functioning of the inspection service and the material resources made available to them. Although noting the general information contained in the annual report of the inspection services for 1990, the Committee trusts that the Government will include in its next report under article 22 of the Constitution any comment that it considers appropriate concerning the above observations or the measures taken as a consequence of these observations.

3. The Committee notes that the annual report of the inspection services for 1990 reached the ILO in December 1992. It hopes that the Government will publish and transmit annual

reports for subsequent years within the time limits set out in Article 20 of the Convention.

Guinea (ratification: 1959)

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

The Committee notes the observation of the General Union of Workers of Guinea, that the labour inspection service has abandoned essential supervisory activities, concentrating instead on the examination of individual labour disputes and the calculation of severance pay. This has led to acts of corruption by delinquent employers and the loss of inspectors' independence, including the inspectorate's political independence. The Committee would be grateful if the Government would give any reply it considers appropriate to this observation, particularly in the light of Articles 3 and 6 of the Convention regarding the functions, status and conditions of employment of labour inspectors. It hopes the Government will also deal with the matters raised in its previous observation, which read as follows:

Articles 16, 20 and 21 of the Convention. The Committee notes with regret that the Office has once again not received an annual report on the activities of the inspection services. The Committee recalls the importance of annual inspection reports as an essential means of obtaining evidence of the activities of the inspection services, and showing whether workplaces are being inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions. The Committee understands that the ILO has extended certain technical cooperation in this area and expresses its hope that the necessary measures will be taken to ensure that an annual report on the activities of the inspection service with all the necessary information provided therein will soon be provided.

The Committee has again addressed a request for additional information directly to the Government.

Haiti (ratification: 1952)

The Committee notes the information received from the Government in July 1992, although no report under article 22 of the Constitution has been received.

Articles 10, 11 and 16 of the Convention. Further to its previous comments, the Committee notes that the number of inspectors has increased (from 18 in 1986 to 65 in 1991); a survey was to be conducted to determine the number of establishments throughout the country; and the number of establishments visited in August 1991 was 520. The Committee hopes the Government will continue to describe

measures taken or envisaged to make sure the inspection service is able to monitor the application of the relevant legal provisions.

Article 14. Further to its previous comments concerning measures which would lead to occupational accidents and diseases being notified to the labour inspection services, the Committee notes that the administrative reform anticipated has not become effective. It hopes the Government will indicate any developments with a view to giving effect to this Article of the Convention.

Articles 20 and 21. Further to its previous comment, the Committee notes that the Government has not published an annual report on the activities of the inspection services, but the necessary information is compiled each month. The Committee trusts the Government will supply annual inspection reports in the near future.

Iraq (ratification: 1951)

Further to its previous comments made over several years, the Committee notes the particularly brief government report and the report on the activities of the inspection services for 1992. The Committee wishes to point out the need for the Government to submit reports on the application of this Convention in accordance with the report form approved by the Governing Body. It also notes that once again the Government has submitted an annual report on the activities of the inspection services that does not conform to the requirements of the Convention regarding publication of such reports within the time-limits set in Article 20 of the Convention, and the need to provide, in these reports, all relevant information on the activities of the inspection service including on all those listed in Article 21 and in particular in Article 21(c) (statistics of workplaces liable to inspection), Article 21(d) (statistics of inspection visits), and Article 21(e) (statistics of violations and penalties imposed). The Committee trusts the Government will not fail to take the necessary measures shortly to ensure the full implementation of the Convention.

Jamaica (ratification: 1962)

Further to its previous observations, the Committee notes the discussion in the Conference Committee in 1993, which itself noted the Government's request for technical assistance from the Office in respect to labour inspection. It regrets to note further, however, that neither the Government's report on the Convention nor any annual inspection reports (Articles 20 and 21 of the Convention) have been received. The Committee hopes the Government will indicate what measures have been taken as regards these matters (referred to again in a direct request) and those raised again below.

Article 13, paragraphs 2(b) and 3. For many years the Committee has been commenting that there are no provisions in national legislation empowering factory inspectors to require measures with immediate executory force in the event of imminent danger to the health and safety of workers. In the Conference Committee discussion in 1990, the Government representative

stated that legislative amendments were being pursued through the tripartite Labour Advisory Committee. The Committee now notes the Government's indication that since its last report no change has occurred in the situation. The Committee once again expresses its hope that the necessary measures will soon be taken.

Article 14. In its last observation, the Committee noted that the question of a requirement of notification of occupational diseases was being pursued by the competent authority. The Committee now notes that there has been no change in this respect. It again expresses the hope that progress will be made.

Jordan (ratification: 1969)

Further to its previous comments, the Committee notes the information that the draft Labour Code would be submitted to the next session of the National Council, to be convened after the parliamentary elections in November 1993. It hopes the Government will provide full particulars on developments and that the Code, when adopted, will ensure amongst other things that:

- (i) the power to make or have made orders with immediate executory force in the event of imminent danger is conferred directly on labour inspectors (Article 13 of the Convention); and
- (ii) there is an obligation to notify the inspectorate of industrial accidents and occupational diseases (Article 14).

Articles 20 and 21. Further to its previous comments, the Committee notes that, while the annual inspection reports for the years 1988-91 have not been received, that for 1992 has reached the Office. It points out that the report for 1992 does not contain particulars of the staff of the labour inspection service including its geographic distribution within the country (Article 21(b)), and statistics of occupational diseases (Article 21(g)). The Committee wishes to underline the importance it attaches to the compilation, publication and transmission of such annual inspection reports in accordance with the requirements of Article 20, and containing all the information listed in Article 21.

Malawi (ratification: 1965)

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

Articles 10, 11, 16, 20 and 21 of the Convention. With reference to its previous observations, the Committee notes that no annual inspection reports have yet been published, although certain information and statistics provided for in Article 21 are included in the Ministry of Labour's annual statistical bulletins, the latest one being for the fourth quarter of 1987. The Government also states that a staffing review has been completed at the Ministry, inspections are being carried out, and

collection of the necessary information is expected. In these conditions, however, the Committee is unable to determine whether the necessary staff and resources are available to the labour inspectorate to ensure that workplaces are inspected as often and as thoroughly as necessary, in accordance with the Convention. It hopes the Government will be able to make progress in the near future and that it will in any event supply full details in its next report on the Convention.

Malaysia (ratification: 1963)

Further to its previous comments, the Committee has taken note of the Government's reply and the Report of the Labour Department as regards inspection activities in 1989-90. It recalls also the earlier observations made by the Malaysian Trades Union Congress (MTUC).

Article 3(2) of the Convention. The Committee notes from the report that, as the workload on labour officers in other areas of activity than inspection is increasing, visits for the detection of non-compliance with the law cannot be increased to a desired level. It hopes the Government will nevertheless endeavour to ensure that the further duties given to inspectors do not interfere with the effective discharge of their primary inspection duties and that it will provide full information in the next report on the Convention.

Article 5. (a) The Committee notes the recommendations in the Annual Report for 1989/90 of the Factories and Machinery Department (FMD). It would be glad to know what cooperation exists between the FMD and the Labour Department in the implementation of the Convention.

(b) The Committee recalls the view of the MTUC that not much had been done to increase collaboration between the labour inspectorate and workers or their organizations. It notes also the statement in the report as to the need for self-auditing by employers to ensure the law is complied with and for employees to know their obligations and rights. Further, the report states that the percentage of organized labour is small, so that the vast majority of employees in the private sector are wholly dependent on the Labour Department for the establishment and enforcement of labour standards and conditions of employment. At the same time, the FMD has pointed to a misconception among employers and workers that responsibility for occupational safety and health lies solely with the Government. The Committee hopes the Government will indicate the measures taken to ensure the necessary collaboration with both employers and workers or their organizations, as required by this Article.

Articles 9, 10 and 16. The Committee notes from the Government's reply and the tables for 1990 and 1991 and the 1989-90 report that numbers of inspectors have not grown to match numbers of places of employment, so that the frequency of inspections has deteriorated to the point where places of employment are visited only once every six years. The MTUC especially drew attention to the lack of specialists and technical experts carrying out inspections, and to the general lack of thoroughness of inspections. The Committee hopes the next report on the Convention will include details of the effect of the new strategy mentioned in the report, involving listing of priorities for

inspection so that, as required by the Convention, workplaces may be inspected as often and as thoroughly as necessary to ensure the effective application of legislation.

Articles 17 and 18. The Committee recalls the MTUC view that penalties for violation of enforceable provisions and for obstruction of inspectors are inadequate. It notes too the 1989-90 report's statement that the Labour Department has adopted a "facilitative" approach to enforcement, as manifested by the decline in numbers of prosecutions. The Committee hopes the next report on the Convention will include the Government's present views in this respect, as well as information on any revision of levels of penalties.

Articles 20 and 21. The Committee hopes annual labour inspection reports will be published and transmitted to the Office within the periods prescribed and will contain all the required information, particularly statistics of workplaces liable to inspection and numbers of workers employed in them (Article 21(c)), as well as statistics of violations and penalties imposed (Article 21(e)).

Nigeria (ratification: 1960)

Articles 16, 20 and 21 of the Convention. Further to its previous observations, the Committee notes from the Government's report that its comments will be taken into consideration in the preparation of subsequent reports. It also notes that an internal memorandum has been submitted by the Government but no decision has yet been taken regarding the establishment of a National Board of Labour Protection, one of the major recommendations of the ILO tripartite mission to evaluate the system of labour inspection in Nigeria that took place in 1991. Meanwhile, no annual labour inspection report has been sent since 1989. The Committee recalls the considerable importance attached to the 1991 mission and report, organized on the Government's invitation, and the need to take the necessary measures to implement its recommendations without delay. It hopes the Government will include in its next report full information on all measures taken or proposed in relation to the preparation and publication of an annual inspection report in accordance with the Convention, showing how far it is ensured that inspection visits take place as often and as thoroughly as necessary to achieve observance of labour legislation, and that it will also deal with other matters raised in a direct request.

Pakistan (ratification: 1953)

1. The Committee notes the observations made by the All Pakistan Federation of Trade Unions. In this respect it would be grateful if the Government would provide information on the following matters: measures taken by the inspection services to enforce payment of wages in conformity with the minimum wages fixed by the Government (Article 3, paragraph 1(a), of the Convention) and to collaborate with the representatives of trade unions (Article 5(b)); action of provincial governments to ensure the implementation of labour laws on

labour inspection (Article 3, paragraph 1(a), and Article 4); and steps taken by the Government to provide the necessary education and training, as well as modern facilities, to the inspectorate for it to carry out its functions properly (Article 7, paragraph 3, and Article 11).

2. The Committee notes that the Government's report has not been received. It further notes the observations made by the Pakistan National Federation of Trade Unions (PNFTU) that no effort has been made by either federal or provincial governments to improve the labour inspection service and that labour laws are not implemented in particular in the informal (unorganized) sector, which the PNFTU estimates to constitute almost 95 per cent of all workplaces. The Committee trusts the Government will take these additional observations into account in responding to its previous comments which read as follows:

Articles 12, 13, 14 and 15 of the Convention. Further to its previous comments, the Committee notes that the amendments to the Factories Act, 1934, the West Pakistan Shops and Establishments Ordinance, 1969, the Payment of Wages Act, 1936, and the Road Transport Workers Ordinance, 1961, have not yet been adopted to comply with the requirements of the Convention. In this regard the Committee draws the Government's attention to the observations made by the Pakistan National Federation of Trade Unions (PNFTU) that most establishments avoid inspection by maintaining the number of workers they have below the threshold for application of the law and as a result they are only subject to the unamended Ordinance of 1969. The Committee urges the Government to take the necessary measures for the early adoption of the legislation in question and it trusts all details will be provided with the next report.

Articles 10, 16, 20 and 21. Further to its previous comments the Committee notes that statistics on the number of the inspection staff are being collected from the provincial governments and will be included in future reports. The Committee hopes they will be published in the annual report of the central inspection authority as required by Article 21(b). It also hopes the Government will provide its comments on the observation made by the PNFTU that the inspection staff in every province is insufficient and inspection activity practically non-existent. The Committee trusts, in future, inspection reports will be published and transmitted to the ILO within the time-limits set in Article 20 and contain all information listed in Article 21, including statistics on the number of the inspection staff which should be sufficient to ensure that inspectors effectively discharge their duties (Article 10) and that workplaces liable to inspection are inspected as often and as thoroughly as necessary (Article 16).

Saudi Arabia (ratification: 1978)

Articles 3(1) and 16 of the Convention. The Committee notes the observations submitted by the International Confederation of Arab

Trade Unions (ICATU). These concern various aspects of labour and employment. The Committee notes the Government's reply that it has always implemented its constitutional reporting obligations to the ILO under articles 19 and 22 of the Constitution and that it rejects all the comments made by the ICATU. The Committee would be grateful if the Government would provide further details of the work of the labour inspection service, in particular in respect of the alleged expulsion of expatriate workers who still have valid employment contracts, and of any unlawful abrogation or change of the conditions and terms of employment contracts including reductions of wages, earnings and allowances. It would especially be grateful if the Government would indicate how the labour inspection service brings to the attention of the competent authority defects or abuses not covered by existing legal provisions, as required by Article 3, paragraph 1(c), of the Convention.

Articles 20 and 21. Further to its previous comments, the Committee notes the Government's report and the report on the activities of the inspection service for the year 1991. The Committee wishes to underline the requirement under Article 20 that the annual report on the work of the inspection service is to be published within a reasonable time after the end of the year to which it relates and in any case within 12 months. It also notes that the report for 1991 does not contain statistics of the workplaces liable to inspection (Article 21(c)) or information by branches of activities, including mining and transport undertakings. It hopes the Government will provide full particulars.

Sierra Leone (ratification: 1961)

The Committee notes the Government's reply to its previous comments regarding the serious problems of application of the Convention. It notes the Government's statement that, in reality, there has been no labour inspection unit in the Labour Department and there have therefore been no labour inspectors to carry out labour inspection (Article 10 and 11 of the Convention). There is therefore no information as to the frequency of inspection visits (Article 16) or the preparation of annual labour inspection reports (Articles 20 and 21).

The Committee notes however that the Government now plans to employ labour inspectors for the smooth functioning of labour inspection. It hopes that, with the cooperation of the technical services of the office concerned, it will be possible to make some workable proposals of various kinds to the inspection services.

The Committee reiterates the view that labour inspection is of central importance in ensuring the implementation of labour standards. It hopes that the Government will continue to provide available information on the manner in which the Convention is applied and on progress made.

Sudan (ratification: 1970)

Further to its previous comments, the Committee notes that, while the Government's report describes in general terms the manner in which the Convention should be applied, it contains no information on any new measures taken in relation to the questions raised. The Committee reiterates its earlier suggestion to the Government that it consider the results of relevant technical cooperation received and any further steps which may be taken in that light to enable it to provide a report in the form approved by the Governing Body. It urges the Government to take measures to provide precise information as to the practical working of the labour inspection system, so as to enable the Committee to consider the manner in which the Convention is being applied, and to address its previous comments concerning the following Articles:

Article 3, paragraph 1(c), of the Convention. In addition to securing the enforcement of existing legal provisions, the Committee wishes to draw the Government's attention to the requirement of this Article that the system of labour inspection should have the function of bringing to the notice of the competent authority defects or abuses not specifically covered by the existing legal provisions.

Article 5(b). The Committee notes the Government's general reply to its previous comments regarding the existence of effective collaboration between officials of the labour inspectorate and employers and workers or their organizations. The Committee would be grateful if the Government would provide particulars of how such collaboration works in practice.

Article 12, paragraph 1(a) and (b). The Committee notes the Government's indication that section 53 of the Individual Labour Relations Act, 1981, authorizes labour inspectors to enter without previous notice at any hour of the day or night any workplace liable to inspection. However, it recalls that the terms of section 53 limit such entry to working hours only. The Committee would be glad if the Government would clarify the matter and indicate any amendment of the legislation adopted or proposed.

Article 15(a). The Committee notes that, despite the absence of a provision prohibiting labour inspectors from having any direct or indirect interest in the undertakings under their supervision, the Government considers that such prohibition is applied effectively in practice by the directors of the inspectorates at the time of the appointment of labour inspectors. The Committee hopes the Government will bring the law into line with the practice by adopting a provision requiring this, and that it will supply details.

Articles 16, 20 and 21. The Committee notes that annual reports on the activities of the inspection services have not been provided for a considerable number of years. The Committee wishes to recall the importance it attaches to such reports as an essential means of obtaining evidence of the activities of these services, and showing whether workplaces are being inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions. It hopes appropriate steps will be taken, perhaps by reference to the technical cooperation mentioned above.

Suriname (ratification: 1976)

Further to its previous comments, the Committee notes with interest the information that, with the technical assistance of the ILO, the Government is currently studying a project for the revision of the labour legislation, and that computers are being introduced in the work of the inspection service to help facilitate access to statistical data. The Committee hopes these developments will enable the Government to take the necessary measures with regard to its previous comments and thus give full effect to Article 14 of the Convention (notification of cases of occupational diseases to the labour inspectorate) and Article 15(b) (obligation of inspectors not to reveal secrets).

Articles 20 and 21. Further to its previous comments, the Committee notes the brief statistical data provided and the information that the report of the inspection service will be transmitted as soon as possible. The Committee recalls that no annual report of the inspection service has been received since 1987, and that the last report failed to include a number of the types of information required by Article 21. The Committee trusts that the necessary measures will be taken to ensure that such annual reports, containing all the necessary information, are published and sent to the ILO within the time-limits required.

Syrian Arab Republic (ratification: 1960)

Further to its previous observation the Committee notes the information supplied to the Conference Committee in 1992, the Government's report and the annual labour inspection reports for 1990 and 1991. It recalls the importance attached under Articles 20 and 21 of the Convention to the compilation and timely publication of such annual reports on labour inspection and again draws the Government's attention to the need for such reports at both the national and international levels to assess whether workplaces are being inspected as often and as thoroughly as necessary, in accordance with Article 16. The Committee is addressing a direct request to the Government concerning another point.

Uganda (ratification: 1963)

Articles 1, 16, 20 and 21 of the Convention. Further to its previous comments, the Committee notes that, despite its firm intentions to implement the Convention, the Government continues to face considerable financial constraints to provide logistics, transportation, typewriters, stationery for inspection visits to be conducted and annual labour inspection reports duly compiled and published, as required by the Convention. The Committee notes that the project document containing the 1988 ILO/JASPA advisory mission's recommendations to strengthen the labour inspectorate was submitted to the UNDP, but it did not attract any funding mainly because it was not within the priority themes of the country programme of the UNDP. It

notes however that the ILO was able to respond partly by granting two scholarships for training on labour statistics at the ILO Turin Training Center in March-April 1993. It also notes that the Government is seeking further assistance from the African Regional Labour Administration Center (ARLAC) in Harare with the view to submitting a smaller project to strengthen the labour department. In the meantime the Government indicates that efforts are being made to compile and disseminate annual reports on labour inspection for 1990 and 1991. The Committee hopes these efforts will soon enable the Government to report improvements in the situation of labour inspection in the country, and that it will continue to supply information available.

Yemen (ratification: 1976)

Further to its previous comments, the Committee notes with interest the Government's report and the enclosed annual report on the activities of the inspection services for the year 1991 and a summary for 1992. The Committee is raising certain other points in a direct request.

Zaire (ratification: 1968)

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

In its previous comments, the Committee noted the need to prepare and publish annual inspection reports in accordance with Articles 20 and 21 of the Convention, and the difficulties encountered by the Government in the application of Article 7, paragraph 3 (the vocational training of labour inspectors), Article 10 (the number of labour inspectors), Article 11 (the transport and other facilities furnished to labour inspectors) and Article 16 (the frequency of inspections). It notes that the Government has supplied very incomplete reports on the activities of the inspection services for the years 1989, 1990 and 1991. These reports, supplemented by brief information in the report on the Convention, appear to confirm that the objective set out in the Convention, which is to ensure that workplaces are inspected as often and as thoroughly as necessary, despite the efforts of the labour inspectors, is still implemented in a very unsatisfactory manner. The Committee notes in this context that the ILO provided assistance to the Government in 1990 to retrain labour inspectors, and that the Government would like to see this assistance renewed, but that, in view in particular of the lack of resources of the inspection services, this assistance cannot by itself ensure that the Convention is applied. In this context, the Committee also notes the information contained in the annual report for 1991 concerning the impact of social and political events in the country and the hope placed in the National Sovereignty Conference by the workers.

The Committee recalls the important contribution that labour inspection can make to economic development and the sound management of rare resources (see paragraphs 55 to 57 of its General Report of 1992). It trusts that the Government will find the means to overcome its difficulties in the application of the Convention by endeavouring, in particular, to supply the inspection services with the human and material resources which are essential for them, and that it will supply all the necessary information in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Austria, Bangladesh, Barbados, Belize, Brazil, Burkina Faso, Burundi, Cape Verde, Comoros, Côte d'Ivoire, Denmark, Djibouti, Finland, Gabon, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Israel, Kuwait, Lebanon, Madagascar, Malta, Mauritius, Mozambique, Netherlands, Niger, Nigeria, Norway, Portugal, Qatar, Rwanda, Sao Tome and Principe, Singapore, Slovenia, Solomon Islands, Swaziland, Switzerland, Syrian Arab Republic, Tunisia, United Arab Emirates, United Kingdom and Yemen.

Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947

Requests regarding certain points are being addressed directly to the following States: Benin and Trinidad and Tobago.

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948

Antigua and Barbuda (ratification: 1983)

Further to its previous comments in relation to the limitation on the right to strike, the Committee noted with interest the judgement of the Judicial Committee of the Privy Council, dated February 1993, which reversed the decisions of the lower court and held that in a case of strike - which had been examined by the Committee on Freedom of Association in Case No. 1296 - dismissal of the strikers had been unfair.

It requests the Government to keep it informed of any legislative developments with respect to the right to strike in conformity with the principles of freedom of association.

Bangladesh (ratification: 1972)

The Committee notes the information supplied by the Government in its reports as well as the observations of the Bangladesh Workers' Federation (BWF) and of the Bangladesh Employers' Association (BEA). It recalls that its previous comments concerned the following points:

- the right of association of persons carrying out managerial and administrative functions;
- the right of association of public servants;
- restrictions on the range of persons who can hold office in trade unions;
- the extent of external supervision of the internal affairs of trade unions;
- the "30 per cent" requirement for initial or continued registration as a trade union;
- denial of the right to organize of workers in export processing zones; and
- denial of the right to organize of certain groups of workers in a number of sectors of the economy, inter alia, rural electrification, civil aviation, jute research, bank security printing press).

Managerial and administrative functions

The Committee has noted on previous occasions that section 2(b)(xxviii) of the Industrial Relations Ordinance, 1969, excludes from the definitions of "worker" and "workmen" persons who exercise functions of a managerial or administrative nature, which has the consequence that such persons are denied the right of association set out in section 3(a) of the Ordinance and hence not entitled to the protection of the Ordinance.

The Committee notes from the Government's report that, while persons carrying out managerial and administrative functions do not join trade unions of workers, they can form their own associations for the advancement of their rights and interests. The Government further states that, since the number of persons engaged in managerial and administrative functions is limited to around 2 per cent of the total employed, they do not form their own associations in each establishment; instead they establish these associations at the national level. Some of these persons join associations of different professional groups, such as the Institute of Chartered Accountants and the Institution of Engineers, in order to further their professional interests.

The Committee has recognized in paragraph 66 of its 1994 General Survey on Freedom of Association and Collective Bargaining that forbidding such persons to join unions representing other workers is not necessarily incompatible with the requirements of the Convention provided that they have the right to form their own organizations to defend their interests, and that the categories of managerial staff are not so broadly defined that the organizations of other workers in the establishment or branch of activity are weakened by being deprived of a substantial proportion of their present or potential membership. The Committee requests the Government to indicate which legislative

provisions entitle persons carrying out managerial and administrative functions to join associations to further their occupational interests. The Committee notes, moreover, that the Government does not mention the number and size of organizations which have been formed, in practice, in order to represent the interests of such workers. It would therefore request the Government once again to provide information in its next report on the number and size of such associations.

Right of association of public servants

The Government indicates that although public servants are excluded from the coverage of the Industrial Relations Ordinance, they are allowed to form their own associations to advance their causes. Moreover, these associations have their own executive committees, offices and funds, and meetings are held with a view to mitigating grievances of members. These associations also formulate charters of demands for submission to the Government and for negotiation on them.

While noting the Government's statement, the Committee observes that such associations are subject to certain interference by public authorities in relation to their activities, through the Government Servants (Conduct) Rules, 1979. It would point out once again that these restrictions are not in conformity with the requirements of Articles 2 and 3 of the Convention, and requests the Government to take the necessary steps to bring its law and practice into full conformity with these provisions by removing the excessive restrictions.

Restrictions on the range of persons who can hold office in trade unions

The BWF states that section 7A(1)(b) of the Industrial Relations Ordinance, which disqualifies a worker from being a member or officer of a trade union formed in any establishment if he is not or was never employed or engaged in that establishment, restricts workers' freedom to elect their representatives. The Government indicates in its report that though formulated as a negative sentence, this provision facilitates the joining of workers in unions of a given establishment or a group of establishments.

The Committee would nevertheless point out that this provision prevents persons who are not current or former employees in the trade or industry concerned from becoming officers of a trade union, which is contrary to the right of workers' organizations to elect their representatives in full freedom. It therefore requests the Government once again to introduce amendments to provide for greater flexibility in relation to office-holding in trade unions by admitting as candidates persons who have previously been employed in the occupation and by exempting from occupational requirements a reasonable proportion of the officers of an organization.

The Government points out that the provision whereby a worker who is dismissed for misconduct shall not be entitled to be a member or officer of a trade union (section 3 of Act No. 22 of 1990) is desirable, since the induction of such dismissed workers into a trade

union, either as members or as office-bearers, may hinder normal trade union activities as well as industrial peace and productivity. The BEA reiterates its earlier views that workers who have been dismissed for misconduct should not be able to hold trade union office, since such persons "being obsessed with retaliation would defeat the very purpose and spirit of collective bargaining". The Committee would first of all once again request the Government to supply a copy of Act No. 22 of 1990. It would further point out that, whilst it may be permissible to exclude from office-holding persons who have been convicted of criminal offences which call into question the integrity of the person concerned and which are of such a character as to be prejudicial to the exercise of trade union office (1994 General Survey, op. cit., para. 120), it considers that individuals should not be excluded from holding office simply because they have been dismissed from their employment for misconduct, and asks the Government to take steps to amend this provision accordingly.

External supervision

The Committee notes that the powers of the Registrar of Trade Unions to enter trade union premises, inspect documents, etc. under rule 10 of the Industrial Relations Rules 1977 are not subject to judicial review. The Committee would remind the Government that legislation which empowers the administrative authorities to investigate the internal affairs of a union at their entire discretion does not conform to the principles of the Convention (1994 General Survey, op. cit., paras. 125, 126 and 135). It therefore requests the Government to take steps to amend this provision so that the controls conducted by the Registrar are subject to review by the competent judicial authority.

The 30 per cent requirement

For some years the Committee has been asking the Government to review sections 7(2) and 10(1)(g) of the Industrial Relations Ordinance in order to bring them into conformity with Article 2 of the Convention. The first of these provisions is to the effect that no trade union may be registered unless it has a minimum membership of 30 per cent of the total number of workers employed in the establishment or group of establishments in which it is formed. The second gives the Registrar of Trade Unions the power to cancel the registration of a union where its membership has fallen below the 30 per cent threshold.

In its report, the Government indicates that, while this minimum membership requirement has prevented the growth of a multiplicity of trade unions, it has not hindered the establishment of organizations in different workplaces. The Government has nevertheless noted the Committee's previous observations in this respect. Therefore, it has referred the relevant labour laws to a Labour Law Commission set up in 1992 for review and reformulation in the light of national conditions and international labour standards.

The Committee welcomes these developments and trusts that the above-mentioned review will bring law and practice relating to the

registration of trade unions into conformity with Article 2 of the Convention under which workers have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing. It requests the Government to keep it informed of any progress made in this respect in the work of the Labour Law Commission.

Denial of the right to organize of
workers in export processing zones

With reference to its previous comments, the Committee notes with interest from the Government's report that it has already decided to review the provisions of the Bangladesh Export Processing Zones Authority Act, 1980, which denies workers in export processing zones the right to form and join trade unions. The Government indicates that amendment proposals covering the extension of the provisions of the Industrial Relations Ordinance and other related laws have been submitted to the competent authority. Moreover, some of the establishments in these zones have already allowed their workers to form trade unions in anticipation of the amendment of the existing law.

The Committee requests the Government to supply a copy of the relevant amendments to the 1980 Act and to indicate the number of organizations that have already been set up in export processing zones as well as the size of their respective membership.

Denial of the right to organize of
certain groups of workers

The Government states that workers employed by the Civil Aviation Authority and the Jute Research Institute enjoy the right to organize. The trade union of workers in the Security Printing Press is also registered, although the authorities have initiated an amendment of the relevant law to prevent undue trade union activity in the press. In any case, the Government indicates that all legislative provisions relating to the right to organize and the exclusion of establishments from the purview of the Industrial Relations Ordinance are being reviewed by the Labour Law Commission.

The Committee takes note of this information and recalls that the only groups of workers who may be denied the guarantees embodied in the Convention are those mentioned in Article 9 thereof - namely members of the armed forces and the police. Therefore, it trusts that the above-mentioned legislative amendments will be in conformity with the requirements of the Convention and requests the Government to provide details of these amendments once they have been elaborated by the Labour Law Commission.

Burkina Faso (ratification: 1960)

The Committee notes the entry into force of Decree No. 92-379/PRES of 31 December 1992 to promulgate the Labour Code (Act No. 11/92/ADP, 22 December 1992).

1. With reference to its previous comments, the Committee notes with regret that the new Labour Code has not repealed the provisions of Zatu No. AN VI-008/FP/TRAV of 26 October 1988 establishing the general conditions of service of the public service, which require public servants to respect the revolutionary order under penalty of disciplinary sanctions (sections 6, 7, 9, 36 and 46 of the Zatu).

The Committee accordingly urges the Government to repeal the above-mentioned provisions of the Zatu of 26 October 1988 so as to bring the legislation fully into conformity with the Convention. It asks the Government to indicate in its next report any measures that have been taken in this respect.

2. The Committee is also addressing a direct request to the Government concerning certain provisions of the new Labour Code.

Cameroon (ratification: 1960)

The Committee takes note of the Government's report and the conclusions of the Committee on Freedom of Association in Case No. 1699 (see 291st Report of the above Committee, paras. 516-551, approved by the Governing Body at its 258th Session, November 1993).

1. Article 2 of the Convention. The Committee recalls that in its previous comments it pointed out that the following provisions were not consistent with the requirements of the Convention: Act No. 68/LF/19 of 18 November 1968, which subjects the legal existence of a trade union or professional association of public servants to the prior approval of the Minister of Territorial Administration; and section 6(2) of the Labour Code of 1992, under which persons forming a trade union that has not yet been registered, and who act as if the said union has been registered, shall be liable to prosecution.

The Government indicates in its report that matters concerning unions and associations of public servants do not come within the purview of the Ministry of Labour and Social Welfare, and that persons forming a union are subject to the Labour Code and its implementing texts governing matters related to unions. It adds that the provisions of section 6(2) of the Code are not inconsistent with the right of workers to set up unions in full freedom and without prior authorization, and that the procedure for registering a union is merely an administrative formality requiring a declaration, and does not impede the actual establishment of a union.

The Committee observes that, in Case No. 1699, the Committee on Freedom of Association noted that the Government has refused since 1991 to recognize the National Union of Teachers in Higher Education (SYNES), and considered that Act No. 68/LF/19 and section 6(2) of the Labour Code are contrary to the provisions of the Convention. The Committee urges the Government, as did the Committee on Freedom of Association, to recognize the right of teachers in higher education, be they public servants or contract employees, to form unions of their own choosing, and to take the necessary steps to repeal Act No. 68/LF/19 of 18 November 1968, and section 6(2) of the Labour Code, so as to guarantee the right of all workers, without distinction whatsoever, including public servants, to establish professional

associations without previous authorization, in accordance with this Article of the Convention.

2. Article 5. With reference to its previous comments concerning section 19 of Decree No. 69/DF/7 of 6 January 1969, under which trade unions or professional associations of public servants may not join a foreign professional organization without obtaining prior authorization from the Minister responsible for "supervising fundamental freedoms", the Committee notes with regret that, in its report, the Government provides no information on the measures taken to bring its legislation into line with the requirements of the Convention. In these circumstances, the Committee again asks the Government to take the necessary steps to ensure that all workers' organizations have the right to affiliate freely with international organizations, in accordance with Article 5 of the Convention.

3. The Committee asks the Government to indicate in its next report all measures that have been taken to put its comments into effect.

Canada (ratification: 1972)

The Committee takes notes of the information contained in the Federal Government's report including copies of new federal and provincial legislation and the replies of provincial governments to the Committee's previous observations.

Articles 2 and 3 of the Convention: The right of workers and employers to establish and join organizations of their own choosing without previous authorization; the right to formulate their programmes.

Alberta

In several previous comments as well as in the follow-up to the September 1985 study and information mission, the Committee had requested the Government: (a) to repeal the provisions of the Universities Act which empowered the Board of Governors to designate those academic staff members who were allowed, by law, to establish and join a professional association for the defence of their interests; and (b) to introduce an independent system of designation where the parties could not reach agreement for the purpose of joining academic staff associations. The Committee notes the Government's comments that the action concerning the legality, under the Canadian Charter of Rights and Freedoms of a similar section of the Colleges Act, has not yet been heard by the court, and that the Government will consider the results of this case before making any decision about changing the Universities Act.

Noting that the Universities Act restricts the right of academic staff to establish and join organizations of their own choosing, the Committee would recall once again, as did the Committee on Freedom of Association in relation to Case No. 1234 (241st Report, November 1985), the need for the Government to amend the Universities Act in order to bring it into full conformity with Article 2 of the

Convention. The Committee urges the Government to provide information on any measures taken in this respect.

In its previous comments, the Committee also noted that the Government was pursuing its examination of the provisions of the Public Service Employee Relations Act and the Labour Relations Code of 1988 which banned strikes. The Committee takes note of the Government's comments that a review of the said provisions is continuing.

The Committee, like the Committee on Freedom of Association (Case No. 1247, 241st Report), emphasizes once again the need to limit restrictions or prohibitions on the right to strike to essential services in the strict sense of the term and to public servants exercising authority in the name of the State (1994 General Survey on Freedom of Association and Collective Bargaining, paras. 158 and 159). The Committee requests the Government to inform it of any measures taken to limit the restrictions on the right to strike, in conformity with the above-mentioned principles.

Newfoundland

In its previous observation, the Committee had requested the Government to indicate the specific steps that had been taken to enact certain amendments to the Public Service (Collective Bargaining) Act (No. 59) which, by its definition of "employees" excludes many public employees from belonging to the union of their choice and restricts the right to strike in the public service. The Committee recalls that in previous reports the Government indicated that a new law was drafted on the recommendation of the Legislation Review Committee which would bring all employees under the Labour Relations Act, as well as create a joint employer-employee consultation process for designating essential services. That Bill was to be introduced in the Newfoundland House of Assembly in February 1991.

The Committee regrets to note from the Government's reply that it has not passed any legislation which would bring all employees under the Labour Relations Act and that there is no draft legislation presently before the House of Assembly. The Government further states that public servants in Newfoundland and Labrador, with only limited exceptions, have the right to strike and that these exceptions relate primarily to firefighters and essential employees. Moreover, essential employees are defined in relation to duties necessary for the health, safety or security of the public and where all employees in a unit are deemed essential employees, then matters in dispute between the employer and the bargaining agent, including compensation issues, are referred to adjudication which provides a binding decision.

While noting the above information, the Committee would emphasize that its previous comments addressed the need to amend section 10.1 of the Public Service (Collective Bargaining) Act which relates to the procedure for the designation of "essential employees" for the very reason that by conferring broad powers on the employer in this respect, this provision could impair the right of employees who are not designated as "essential" to resort to a strike in the event of a dispute, and could also make it difficult for "essential employees" to have access to independent arbitration in the event of a dispute.

The Committee would once again remind the Government that workers without distinction whatsoever should have the right to belong to an organization of their own choosing (Article 2). The Committee further recalls that prohibitions on the right to strike should be confined to public servants exercising authority in the name of the State, or to essential services in the strict sense of the term, and that when the parties disagree on the extent of minimum services to be maintained, it would be preferable that an independent body could be convened to make this determination. Furthermore, any limitation on the right to strike in the public service or in essential services should be compensated by adequate, impartial and speedy conciliation and arbitration procedures in which the parties can take part at every stage and in which the awards should, in all cases, be binding on both parties (1224 General Survey, *op. cit.*, paras. 156-164).

The Committee notes the Government's statement that it has encouraged the establishment of a Labour Management Consultative Committee to advise on appropriate policy and programme reforms and that this Committee, which includes representatives of public sector unions, may be asked to review the above-mentioned issues. The Committee trusts that the Labour Management Consultative Committee will review these issues and propose amendments to the legislation with a view to bringing it into full conformity with the Convention. It requests the Government to inform it in its next report of any progress made in this regard.

Costa Rica (ratification: 1960)

The Committee notes the Government's report and the report of the direct contacts mission which visited Costa Rica from 4 to 8 October 1993.

The Committee notes Legislative Decree No. 7348 of 18 June 1993 and Act No. 7360 of 4 November 1993 to reform the Act on solidarist associations, the Labour Code and the Basic Act of the Ministry of Labour, which was adopted three weeks after the conclusion of the direct contacts mission.

In this respect, the Committee notes with satisfaction that Legislative Decree No. 7348 repeals sections 333 and 334 of the Penal Code, under which public officials and employees who went on strike could be punished by imprisonment and fines. The Committee also notes with satisfaction that Act No. 7360 of 4 November 1993 complies with various requests made by the Committee in its previous observation:

- with regard to the request by the Committee of Experts and the Committee on Freedom of Association that solidarist associations refrain from engaging in trade union activities and, in particular, in collective bargaining, the new Act prohibits these associations from "undertaking any kind of activity tending to combat or in any way hinder the formation and operation of trade unions and cooperative organizations"; "signing collective agreements or direct arrangements relating to labour"; "participating in hiring and collective labour agreements". The new Act also states that "When there is a trade union in an enterprise, to which at least a simple majority of its workers

belong, the employer is prohibited from collective bargaining of any type with anyone but the union. Any agreement signed that conflicts with the provisions of this section shall not be registered or approved by the Ministry of Labour and Social Security, nor can it oppose trade union interests";

- with regard to the request by the Committee of Experts and the Committee on Freedom of Association that all unequal treatment of solidarist and trade union associations be eliminated, under the new Act trade unions may be formed with a minimum of 12 members (the same number as is required for solidarist associations);
- with regard to the request by the Committee of Experts and the Committee on Freedom of Association that effective protection be guaranteed against all types of anti-union discrimination, the new Act:

- (a) prohibits "actions or omissions that tend to avoid, limit, restrain or prevent the free exercise of the collective rights of workers, their trade unions or coalitions", and also establishes that "any act arising from such actions or omissions is absolutely null and void and shall be penalized under the provisions of the Labour Code, its supplementary or appended Acts concerning infringements of prohibitive provisions";
- (b) stipulates that the following shall enjoy labour stability: members of trade unions being formed (for a period of no longer than four months); certain trade union officials (while holding their posts and for six months subsequently); and candidates for the executive committee (for three months following announcement of their candidacy). In the case of the dismissal without just cause of workers enjoying labour stability, the Act stipulates that "the competent labour court shall declare such dismissal null and void, and shall subsequently order that the worker be reinstated and paid all outstanding wages, in addition to penalties for which the employer is liable pursuant to this Code and its supplementary and appended Acts";
- (c) stipulates that "punishable infractions are those actions or omissions committed by employers, workers or their respective organizations that transgress the norms provided in Conventions adopted by the International Labour Organization, ratified by the legislative body, and the norms provided in this Code and in social security Acts". The new Act provides a list of penalties, which may be as high as 23 months of minimum wages.

The Government also stated that on 8 October 1993, the Supreme Court of Justice declared receivable an appeal for enforcement of constitutional rights (*amparo*), in direct application of Conventions Nos. 87, 98 and 135, ordering the reinstatement of the trade union members who had been dismissed without notification of the grounds of their dismissal.

With regard to the question of the exclusion from the scope of the Labour Code (and therefore from its provisions on freedom of association and collective bargaining) of small agricultural and

stock-raising enterprises with no more than five permanent employees (section 14(c) of the Labour Code), the Committee notes with interest the text of Decree No. 2 of 29 January 1952 of the President of the Republic which declares the Labour Code applicable to the above enterprises, and the text of a decision by the Supreme Court of Justice of 22 July 1954 declaring section 14(c) of the Labour Code inapplicable on the grounds that it is contrary to section 63 of the Political Constitution.

Similarly, with regard to the Committee's request to guarantee the right of trade union leaders to hold meetings on plantations, the Committee notes an administrative order "of compulsory application" adopted by the Ministry of Labour and Social Security on 15 April 1993. The Committee notes that the above order provides that "vigilance shall be increased in all sectors, including plantations, to ensure that the right of association of workers and their trade union leaders is not impeded", with the provision that "in the event that violations are detected, the procedures shall be put into motion (by this is understood the labour inspection services) to apply the sanctions set out in the law".

The Committee also notes with interest two Bills which give effect to requests it had made for trade union organizations, and not just solidarist organizations, to be able to administer compensation funds for dismissed workers (the Bill respecting the occupational capitalization and economic democratization fund), under which the concept of public services for which strikes are prohibited is limited to essential services in the strict sense of the term, namely those the interruption of which could endanger the life, safety or health of the whole or part of the population (the Bill on the statutory system of public employment and civil service, which repeals subsections (a) and (b) of section 369 of the Labour Code, which excessively restricted strikes in the public, agricultural and forestry sectors).

Finally, with regard to the prohibition on foreigners from holding office or exercising authority in trade unions (section 60(2) of the Constitution), the Committee notes that the Government has established a committee in the Ministry of Labour to undertake an exhaustive analysis of this matter and has formally requested the technical assistance of the Office with a view to assisting and guiding the process of modifying the Constitution and finding a solution which is in accordance with ILO principles.

The Committee welcomes the considerable progress which has been made as regards the application of Conventions Nos. 87, 98 and 135 and requests the Government to keep it informed of developments relating to the two above Bills (for which technical assistance has been received from the Office) and the question of the possibility of foreigners being able to hold trade union office.

Egypt (ratification: 1957)

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

1. The Committee notes with regret that, despite the assurances given by the Government in its previous report that it was undertaking

the revision of the national legislation and that meetings had been organized for this purpose with high-level officials of the ILO with a view to bringing its legislation into conformity with the requirements of the Convention, the Government confines itself to reiterating the comments and information provided previously.

In these conditions, the Committee is bound to recall that for several years its comments have dealt with the need to repeal or amend the following provisions of its legislation:

- (a) sections 7, 13, 14, 16, 17, 31, 41, 52 and 65 of Act No. 35 of 1976 on trade unions, as amended by Act No. 1 of 1981, which institutionalize a single trade union system, contrary to Article 2 of the Convention, which provides that workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The Committee also recalls that workers must be able, if they so wish, to establish trade union organizations outside the existing trade union structure;
- (b) sections 41 and 62 of the same Act on the control exercised by the Confederation of Egyptian Trade Unions over the nomination and election procedures for trade union office and the financial management of trade unions, contrary to Article 3 which provides that workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom and to organize their administration;
- (c) sections 93 to 106 of the Labour Code, as amended by Act No. 137 of 6 August 1981, on compulsory arbitration at the request of one party, which go beyond essential services in the strict sense of the term, and section 70(b) of Act No. 35 of 1976 on the powers of the public prosecutor to request the criminal courts to remove from office the executive committee of a trade union which has provoked work stoppages or absenteeism in a public service, which is contrary to the right of workers and their organizations to organize their activities and formulate their programmes to defend their economic, social and professional interests, including by means of a strike, without interference by the public authorities, in accordance with the principles contained in Articles 3 and 10. In this connection, the Committee notes with interest the draft text of the Labour Code, section 183 of which provides that a dispute may only be submitted to arbitration at the request of both parties. Noting however that section 182 of the draft text provides that a dispute which arises in an establishment which provides "vital services" (which shall be determined by the Prime Minister under section 199(2) of the draft text) in which strikes are forbidden, can still be submitted to arbitration at the request of one party, the Committee recalls that any restrictions, or prohibition on the right to strike should be confined to public servants exercising authority in the name of the State or to essential services in the strict sense of the term, that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (1994 General Survey on

Freedom of Association and Collective Bargaining, paras. 158 and 159).

2. The Committee also notes that the Act respecting "guarantees for democracy" in professional union associations, adopted on 17 February 1993, regulates in a too detailed manner the right of trade unions to freely elect their representatives (for example, length of trade union office, control of elections, quorum). Committee recalls that it should be left to trade unions to regulate their election procedures in their constitutions or rules, and that the law should be confined to guaranteeing that democratic rules are respected.

3. The Committee requests the Government to indicate in its next report the measures which have been taken to bring the whole of the above legislation into conformity with the requirements of the Convention.

4. The Committee is also addressing a request directly to the Government concerning Act No. 95 of 1980 on "the protection of values".

Germany (ratification: 1957)

The Committee notes the information contained in the Government's report in reply to the comments of 25 February 1993 of the German Confederation of Trade Unions (DGB). It also notes the conclusions of the Committee on Freedom of Association in Case No. 1692 (291st Report of the Committee, paras. 191-227, approved by the Governing Body at its 258th Session, November 1993).

1. Denial of the right of access to the workplace for trade union officials who do not belong to the enterprise. The Committee recalls that the DGB considers that, since there are no enterprise unions in Germany, trade union officials from outside the enterprise must be able to look after the interests of workers in the enterprise. In its previous reports, the Government considered that there was no need to take any legislative measures to ensure that such representatives have access to the enterprise since, according to the Government, there was no dispute on this issue between the employers and the workers.

In its comments of February 1993 the DGB indicates that the provisions of section 2(2) of the 1972 Act respecting the organization of enterprises, granting right of access to the workplace to the representatives of unions represented in the enterprise, are too vague. It adds that the text in question does not deal with the right of access of trade union representatives from outside the enterprise in establishments depending on the Church and other similar establishments and recalls that the Decision of 1981 of the Federal Constitutional Court does not grant access to trade union representatives from outside the enterprise. It considers that such a situation is at variance with Article 3 of the Convention which guarantees the right of workers to elect their representatives in full freedom. It explains that many of the activities involved in representing the interests of workers can only be carried out by trade union representatives from outside the enterprise since a single trade union member working in the enterprise could not possibly cope with

all the activities, and it considers that the issue must be regulated by law.

The Committee notes the Government's statement in its report that with regard to section 2(2) of the 1972 Act respecting the organization of enterprises, the Federal Labour Court ruled in a decision of 25 March 1992 that a trade union is represented in an enterprise when at least one worker in the enterprise is a member of it and that it is for the trade union in question to provide evidence of such membership. According to the Government, this issue has not as yet given rise to any disputes. It indicates that as regards, for example, the institutions of the post and communications services, section 2(2) of the Act respecting representatives of federal staff, which grants the right of access only to delegates of unions represented in these institutions, is of little relevance in practice since 92 per cent of the workers concerned belong to the three unions represented in them. There is therefore no need to grant the right of access to workplaces to trade union representatives from outside the institutions in question.

The Committee again recalls that it has indicated several times that to deny the right of access to the workplace to trade union representatives from outside the enterprise, where these representatives consider that they do need access, is to restrict the right of workers' and employers' organizations to organize their management and activities in full freedom, and that the public authorities must refrain from any intervention likely to restrict this right. While recognizing that the right of access should not affect unduly the activities of the enterprise concerned, the Committee again requests the Government to indicate in its next report the measures taken to guarantee that trade union representatives, even if they do not belong to the enterprise, have access to the workplace should they consider it necessary.

2. Requisitioning of postal service employees (Beamte) to replace striking state employees and manual workers (Angestellte) in the postal services. With reference to its previous comments, the Committee notes with interest the ruling of 5 April 1993 of the Federal Constitutional Court to the effect that the secondment of public service employees (Beamte) to departments where state employees and manual workers (Angestellte) are on strike is not compatible with the German Constitution unless such secondment is expressly regulated by law. It expresses the firm hope that, in accordance with the above ruling, the Government will not resort in future to requisitioning public employees to break a strike.

3. Ban on strikes in the public service. The Committee notes that the DGB points out that the nature of public service duties and the relationship of loyalty by which public servants are banned may not be relied on to diminish the rights of parties to collective bargaining provided for in article 9(3) of the Constitution. The DGB therefore considers that public employees other than those acting as agents of the public authority should have the right to strike, and that it is not possible, under article 33(5) of the Constitution, to exclude all public servants from the right to strike.

The Committee notes with regret that the Government states once again that the ban on strikes for all public servants, regardless of

their functions, does not infringe the Convention which, the Government states, applies only to workers bound by a private law contract. It adds that public servants may not resort to strikes in view of the nature of their relationship of confidentiality and loyalty which is governed by public law. This position is justified in particular by the fact that under article 33(5) of the Constitution the legislator must, in determining conditions of employment, take account of the fundamental principles and rules of the public service and the principles of assistance to the population and maintenance of public services. According to the opinion and case law of the courts, the concept of sovereign powers contained in article 33(4) of the Constitution is not confined to those authorities that traditionally intervene (police, tax authorities, penal system, etc.) but extends wider in a modern State which plays a role in a society and industry.

The Committee must again recall that the principle whereby the right to strike may be restricted or prohibited in the public service or in essential services would become meaningless if the legislation defines the public service or essential services too broadly. The prohibition should therefore be confined to public servants exercising authority in the name of the State or to services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey on Freedom of Association and Collective Bargaining, paras. 158 and 159).

It therefore asks the Government to take the necessary steps to guarantee to public servants other than those exercising authority in the name of the State and to their organizations, the right to organize their activities and formulate their programmes of action to defend their economic, social and occupational interests, including by resorting to strike action, without any interference on the part of the public authorities, in accordance with the principles laid down in Articles 3 and 10 of the Convention. It asks the Government to indicate any measures taken to this end in its next report.

Moreover, the Committee notes the comments submitted by the DGB on 8 February 1994 which were received by the Office as the Committee had already begun its regular session. It will examine the substance of these comments at its next session in the light of the Government's forthcoming report.

Ghana (ratification: 1967)

The Committee notes the Government's report.

It recalls that its previous comments concerned the following points:

- the extensive powers of the Registrar to oppose the registration of a trade union (sections 11(3) and 12(1) of the Trade Unions Ordinance, 1941), contrary to Article 2 of the Convention;
- the wide powers of the Registrar to refuse to recognize a trade union as a representative in collective negotiations (section 3(4) of the Industrial Relations Act, No. 299 of 1965), contrary to Article 3;
- the absence of provisions on the right to form and join federations and confederations and the right to join

international organizations of workers and employers, contrary to Article 5.

The Committee notes the Government's indication in its report that on 29 July and 8 September 1993 the National Advisory Committee on Labour submitted two memoranda to the Minister for Employment and Social Welfare concerning the review, respectively, of the Industrial Relations Act and the Trade Unions Ordinance, with a view to giving effect to the Committee's comments.

In these circumstances, the Committee expresses the firm hope that the Government will be able to provide information in its next report on measures actually taken as a result of the work of the National Advisory Committee on Labour in order to bring the national legislation fully into conformity with the requirements of the Convention.

Haiti (ratification: 1979)

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

The Committee recalls that it has been requesting the Government for several years to repeal or amend section 236bis of the Penal Code, which requires that government approval be obtained to establish an association of more than 20 persons; section 34 of the Decree of 4 November 1983, which confers wide powers on the Government to supervise the trade unions; and sections 185, 190, 199, 200 and 206 of the Labour Code, which impose restrictions on strikes; as well as to give legal recognition to the right to organize of public servants, in order to bring its legislation into conformity with section 35(3) and (4) of the 1987 Constitution, which provides constitutional guarantees of the freedom of association of workers in the public and private sectors and recognizes their right to strike, and to bring it into conformity with the Convention.

The Committee notes that the Government gave a formal assurance that section 236bis of the Penal Code would be repealed and that tripartite meetings had been held to prepare a new Labour Code with a view to implementing the necessary reforms. The Committee is therefore bound once again to urge the Government to indicate in its next report the measures which have been taken to guarantee that the requirements of the Convention are respected.

Hungary (ratification: 1957)

The Committee notes the Government's report and its reply to the comments made by the National Confederation of Hungarian Trade Unions (MSZOSZ).

1. The Committee recalls that, according to the MSZOSZ, Act No. 28 of 11 July 1991 respecting the protection of trade union property and Act No. 29 of 11 July 1991 respecting the voluntary nature of the

payment of trade union membership dues impair the right of trade unions to organize the management of their property freely.

According to the Government, Act No. 28 of 1991 endeavours to resolve the contradictions which existed in respect of the property rights of trade unions and to ensure that these rights can be exercised equally by all trade unions. The Act therefore provides for a transitional period in the management of trade union assets while awaiting their definitive distribution. The Government also states that in December 1992 an agreement was concluded with the MSZOSZ and the National Council of Trade Unions (NCTU) on the distribution of trade union assets. This agreement was introduced in an Act which was adopted by the Parliament in February 1993.

The Committee notes this information. It hopes that the Act of February 1993 will make it possible to resolve the issue of the distribution of the assets covered by Act No. 28 of 1991 in such a manner that the possibility of effectively exercising their activities in full independence is guaranteed on an equal footing to all trade unions. The Committee asks the Government and the trade union organizations concerned to confirm this.

2. With regard to Act No. 29 of 1991 on the voluntary payment of trade union membership dues, the Government points out that under section 1 of the Act the employer may only deduct dues from the worker's wages if the worker gives explicit authorization in writing specifying the amount, purpose and beneficiary of the amount deducted. It is also prohibited for employers to discriminate between workers or different trade union organizations.

In view of this information, the Committee considers that Act No. 29 of 1991 does not jeopardize the safeguards set out in the Convention since it does not establish any discrimination between trade union organizations and does not therefore prejudice the right of workers to establish and join organizations of their own choosing.

3. With regard to the comments of the MSZOSZ relating to the distinction made between the most representative trade unions and other organizations under the provisions of the Labour Code and Act No. 33 of 1992 establishing the conditions of employment of public employees, the Government states that sections 23 and 29 of the Labour Code establish a right of objection against measures (or acts of negligence) by the employer in respect of trade unions which are recognized for that employer. Trade unions which are not recognized have the right, under section 199(1), to initiate legal proceedings against a measure (or act of negligence) by an employer which violates the appropriate employment regulations or in support of claims deriving from the employment relationship. The Government adds that the Labour Code also establishes two methods of determining the representative status of trade unions for the purposes of collective bargaining and the conclusion of collective agreements (section 33).

The Committee considers that the provisions of the Labour Code do not prevent minority organizations from organizing their activities and representing their members in the case of individual claims. The Committee therefore considers that they are not contrary to the requirements of the Convention.

The Committee will examine Act No. 33 of 1992 establishing the conditions of employment of public employees, with respect to the

application of the Convention, as soon as the text is made available to it.

4. The Committee is addressing a direct request to the Government.

Jamaica (ratification: 1962)

For several years, the Committee has requested the Government to amend sections 9 and 10, paragraphs 1, 2, 4, 5 and 8 of the Labour Relations and Industrial Disputes Act No. 14 of 1975, as amended in 1978, which empower the Minister to submit an industrial dispute to compulsory arbitration and hence to terminate any strike. The Committee has noted in the past that the list of essential services contained in the legislation is too broadly defined and that the notion of a strike which is liable seriously to jeopardize the interests of the nation can be interpreted very widely.

In the Committee's opinion, the right to strike is one of the essential means which should be available to workers and their organizations to promote and defend their economic and social interests. The Minister of Labour should therefore only be able to have recourse to the courts in the following circumstances: (1) in the event of strikes in essential services in the strict sense of the term, namely those in which the strike would endanger the life, personal safety or health of the whole or part of the population; or (2) in the event of total and prolonged stoppage of work which might constitute an acute national crisis (1994 General Survey on Freedom of Association and Collective Bargaining, see paras. 152, 154, 159 and 160).

The Committee notes from the Government's report for the period ending in June 1990 that its comments in regard to the definition of essential services are being examined at the level of the Labour Legislative Subcommittee of the Labour Advisory Committee.

The Committee would ask the Government to indicate in its next report if the Minister of Labour has referred any dispute to compulsory arbitration to put an end to a strike and, if so, in what circumstances and in which sector, and to indicate the measures taken to amend its legislation in order to bring it into conformity with the principles of freedom of association.

Kuwait (ratification: 1961)

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

The Committee notes with regret that, despite the assurances given by the Government in its previous reports that it was undertaking a review of the national legislation with a view to bringing it into conformity with the requirements of the Convention, the Government has confined itself to reiterating the comments and information supplied previously.

In these conditions, the Committee is bound to recall that for several years its comments related to the need to repeal or amend the following provisions of the Labour Code (Act No. 38 of 1964):

- (a) - the exclusion from the scope of the Labour Code of employees of the State and the public sector, fixed-term workers employed by the State under the regulations concerning the employment of Indian and Pakistani citizens, domestic workers and employees holding similar positions, and seafarers (section 2);
- the requirement of at least 100 workers in order to establish a trade union (section 71) and ten employers to form an association (section 86);
 - the requirement that non-Kuwaiti workers must reside in Kuwait for five years before being able to join a trade union, and the requirement that a certificate of good reputation and good conduct be obtained in order to join a union (section 72);
 - the requirement that a certificate must be obtained from the Minister of the Interior stating that he has no objection to any of the founder members before a trade union may be established, and the requirement that at least 15 members must be Kuwaiti to establish a union (section 74); and
 - the prohibition on the establishment of more than one trade union for a particular establishment or activity (section 71),

which are contrary to Article 2 of the Convention, which provides that workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The Committee also recalls that workers must be able, if they so wish, to establish trade unions outside the existing trade union structure;

- (b) - the requirement that trade unions may federate only if they represent the same occupation or industries producing similar goods or providing similar services (section 79);
- the prohibition on organizations and their federations from forming more than one general confederation (section 80); and
 - the system of trade union unity instituted by sections 71, 79 and 80 read together,

which are contrary to Articles 5 and 6, under which workers' and employers' organizations shall have the right to establish federations and confederations. The Committee emphasizes that trade union organizations must be able, if they so wish, to associate in federations and confederations outside the existing higher trade union structure;

- (c) - the denial of the right to vote and to be elected of trade unionists who are not of Kuwaiti nationality, except to elect a representative whose only right is to express their opinions to the trade union leaders (section 72);
- the prohibition on trade unions from engaging in any political or religious activity (section 73);

- the broad powers of supervision of the authorities over trade union books and records (section 76); and
- the reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 77),

which are contrary to Article 3, which provides that workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom and to organize their administration without any interference by the authorities;

- (d) - the restrictions on the free exercise of the right to strike (section 88), which is contrary to the principle that workers and their organizations should be able to organize their activities and formulate their programmes in defence of their economic, social and occupational interests, which may include calling a strike, without interference by the public authorities (Articles 3 and 10).

The Committee recalls in this respect that any restrictions to, or prohibition of, the right to strike should be confined to public servants exercising authority in the name of the State or to essential services in the strict sense of the term, that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey on Freedom of Association and Collective Bargaining, paras. 158 and 159).

The Committee requests the Government to indicate in its next report the measures which have been taken to bring the whole of the above legislation into conformity with the requirements of the Convention.

Liberia (ratification: 1962)

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

The Committee notes that there has been no change in the legislative situation, which has been the subject of its comments for many years.

The Committee recalls the need to amend or repeal Decree No. 12 of 30 June 1980 which prohibits strikes, section 4601-A of the Labour Practices Law which prohibits agricultural workers from joining industrial workers' organizations, and section 4102, subsections 10 and 11, of the Labour Practices Law which provides for the supervision of trade union elections by the Labour Practices Review Board. The Committee observes that these provisions are still in force and that they are contrary to Articles 2, 3, 5 and 10 of the Convention.

Furthermore, the Committee recalls that the right to associate of workers in state enterprises and the public service is still not recognized in the national legislation, despite the Government's assurances in previous reports that the Civil Service Act was to be amended in order to give statutory effect

to the right of the workers in this sector to establish and join organizations of their own choosing, in accordance with Article 2 of the Convention.

However, in its previous observation, the Committee noted from the information furnished by the Government to the Conference Committee in 1987 that, in practice, there are organizations of public servants and of rural workers, that strikes have occurred without sanctions being applied and that trade union elections are only supervised by the Ministry of Labour at the invitation of the trade union organization in question.

Accordingly, the Committee again urges the Government to take the necessary measures to amend its legislation in respect of the above matters which have repeatedly been the subject of its comments.

Mauritania (ratification: 1961)

The Committee takes note of the information communicated by a Government representative to the Conference Committee in June 1993 and the information contained in the Government's report. It also notes the comments of the General Confederation of Workers of Mauritania (CGTM) and the Government's reply thereto, as well as a communication of the CGTM dated 5 January 1994 and sent to the ILO Office in Dakar.

1. Articles 2, 5 and 6 of the Convention. The right of workers and employers to form and join organizations of their own choosing. The right of workers' organizations to form federations and confederations. With reference to the comments it has been making for many years, the Committee notes the Government's indication in its report that Act No. 93-038 of 20 July 1993 amending the Labour Code guarantees the possibility of trade union pluralism. The Committee notes that section 1 of Book III of the Code, as amended by the new Act, provides amongst other things that persons engaged in the same occupation, similar crafts or allied trades in the manufacture of specific products or the same liberal profession may establish an occupational trade union and that all workers, without distinction whatsoever, may freely join trade unions of their own choosing within their occupation.

In a communication of 21 March 1993 the CGTM states that the Public Prosecutor refuses to recognize the CGTM on the grounds that the Labour Code provides for a single central organization. In response, the Government indicates that since the promulgation of Act No. 93.038 the authorities have not, to date, refused to recognize any trade union organization. It states that by establishing itself from the outset as a confederation the CGTM was in breach of the law, which requires that, before federations or confederations may be formed, base-level unions must be established and must then meet in congress if they wish to form a federation or confederation. The Government adds that the CGTM has now recognized its error and has begun to organize meetings of the general assemblies of occupational unions and to apply to the competent authorities for recognition of these unions.

The Committee notes with satisfaction the information provided by the CGTM on 5 January 1994, according to which the Prosecutor has established, by a decision of 4 January 1994, that the constitution of the confederation is legal, and that it should be given the certification documents. The Committee trusts that in future workers and their organizations will be able to establish first-level unions, federations and confederations without prior authorization.

2. Article 3. Right of organizations to elect their representatives in full freedom. The Committee notes with regret that section 7 of Book III of the Labour Code, as amended by Act No. 93-038 of 20 July 1993, further restricts eligibility for trade union office by confining it to Mauritanian nationals, whereas before amendment, the provision in question provided that members in charge of the administration or management of a union had to be of Mauritanian nationality or nationals of any other State with which Mauritania has concluded agreements respecting specific establishments.

The Committee reminds the Government that it considers that the legislation should be amended in order to permit organizations to choose their leaders without hindrance and to permit foreign workers to hold trade union office at least after a reasonable period of residence in the host country. (See 1994 General Survey on Freedom of Association and Collective Bargaining, para. 118.) It asks the Government to indicate in its next report the measures taken to bring its legislation into conformity with the requirements of the Convention.

3. Article 3. Right of organizations to organize their activities freely and to formulate their programmes so as to promote and defend the interests of their members. The Committee regrets to note that sections 39, 40, 45 and 48 of Book IV of the Labour Code which impose restrictions on the right to strike have not been amended and that the Government's report provides no information on this matter. While noting the information supplied by a Government representative at the Conference in June 1993 to the effect that the final draft of the Labour Code, which was prepared with ILO assistance, could be submitted to Parliament before the end of the year, the Committee asks the Government to take the necessary steps at the earliest possible date to ensure that the new Labour Code is adopted and that its provisions guarantee the right of trade union organizations to strike in order to defend the social, economic and occupational interests of their members. It asks the Government to indicate in its next report any progress made in this respect and to provide a copy of the new Code as soon as it has been adopted.

Myanmar (ratification: 1955)

The Committee takes note of the Government's report as well as the written and oral information provided to the Conference Committee in June 1993 and the detailed discussion which took place there.

With reference to its previous comments, the Committee notes that, according to the information transmitted to the Conference Committee as well as the Government report, the representative National Convention was convened on 9 January 1993 and it has laid

down the basic principles to be embodied in the new Constitution that would ensure fundamental rights, including freedom of association for workers. Moreover, new labour laws reflecting the principles of the Convention would replace old ones namely, Act No. 6 of 1964 and implementing Regulation No. 5 of 1976 which establish a system of trade union monopoly. These new laws had been submitted to the appropriate authorities and were now under consideration.

While noting the above information, like the Conference Committee the Committee feels bound to point out that the Government has been giving similar assurances over a period of several years. It notes with concern that no real progress has been made as yet in this respect neither in the legislation nor in practice. It therefore firmly urges the Government to ensure that new legislation is introduced to allow workers to establish first-level unions, federations and confederations of their own choosing and choose an appropriate structure without previous authorization, in order to bring law and practice into full conformity with the requirements of Articles 2, 5 and 6 of the Convention which was ratified more than 35 years ago. It requests the Government to report in detail on any progress made in this regard and to send a copy of the draft legislation along with its next report.

[The Government is asked to supply full particulars to the Conference at its 81st Session.]

Netherlands (ratification: 1950)

With reference to the comments it has been making for several years on the need to repeal sections 10 and 11 of the law governing terms and conditions of employment in the national insurance funded and subsidized sectors - known as the "WAGGS" Act - so that employers and workers would be permitted freely to conclude collective agreements in relation to their terms and conditions of employment in these sectors, the Committee notes with satisfaction that the sections in question have been repealed by Act No. 557 of 27 October 1993.

Nicaragua (ratification: 1967)

The Committee notes the comments made by the Association of Rural Workers (ATC) on the application of the Convention, and the Government's replies in this respect.

The ATC alleges the non-observance of the Convention in the formulation of a new Labour Code, which is intended to bring its provisions into conformity with the Convention, and the failure to give effect to the recommendations of the Commission of Inquiry of 1990 set up to examine the complaint made against Nicaragua in relation to the application of the Convention.

The Government states that the draft Labour Code was in general approved by the National Assembly, but that it still has to be discussed in detail, and that the speed of its approval depends on the legislature and not the executive authority. With a view to expediting the procedure, at the initiative of the Labour and Sectoral

Affairs Committee of the National Assembly, a tripartite technical commission was established, composed of representatives of the Government (Ministry of Labour), employers (COSEP and UNAG) and workers (FNT and CPT), with a view to analysing in detail the draft Labour Code and submitting an agreed text to the full National Assembly for adoption. The Government regrets the abstention of the National Workers' Front, to which the ATC belongs, from the last meetings of the above commission.

With regard to the measures suggested by the Commission of Inquiry (para. 544, Nos. 2, 3 and 4), the recommendations made both by the above Commission and by the Committee of Experts for amendments to the labour legislation to bring it into conformity with Convention No. 87 were included in the draft of the new Labour Code, the progress of which is explained above.

The Committee once again hopes that the new Labour Code will be adopted as soon as possible and that it will respond to all the comments that the Committee has been making for a number of years relating to:

- guaranteeing the right of association to public servants, self-employed workers in the urban and rural sectors and persons working in family workshops;
- abolishing the requirement of an absolute majority of the workers of an enterprise or work centre for the establishment of a trade union (section 189 of the Labour Code);
- amending the provision on the general prohibition of political activities by trade unions (section 204(b) of the Labour Code);
- amending the obligation placed on trade union leaders to present to the labour authorities the registers and other documents of a trade union on application by any of the members of that union (section 36 of the Regulations on Trade Union Associations);
- lifting the excessive limitations on the exercise of the right to strike, such as the requirement of a majority of 60 per cent for calling a strike, prohibiting strikes in rural occupations when the produce may be damaged if it is not immediately available, and enabling the authorities to submit a dispute to compulsory arbitration in services which are not essential in the strict sense of the term (sections 225, 228 and 314 of the Labour Code).

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

Niger (ratification: 1961)

Article 3 of the Convention. The right of workers' and employers' organizations to elect their representatives in full freedom.

With reference to its previous comments, the Committee notes with regret that in its report, the Government merely states that it has taken note of the Committee's comments concerning the conditions governing the right to organize of workers and employers carrying out their activities in the national territory and that it will provide the revised texts in due course.

In these circumstances, the Committee is bound once again to recall that section 6 of the Labour Code of 1962 which provides that members responsible for the administration or management of a professional union must be nationals of Niger and section 25, which states that section 6 also applies to union federations, are liable to restrict the full exercise of this right which is guaranteed by Article 3 of the Convention.

The Committee therefore once again asks the Government to amend its legislation so that foreign workers and employees have access to trade union office, at least after a reasonable period of residence in the country (see 1994 General Survey on Freedom of Association and Collective Bargaining, para. 118). It recalls the proposal envisaged by the Government requiring ten consecutive years of activity for eligibility to trade union office may not under any circumstances be regarded as a reasonable period, and expresses the firm hope that the Government will take account of its comments in the review of the legislation.

The Committee asks the Government to provide information in its next report on progress made in bringing the legislation into conformity with the Convention.

Pakistan (ratification: 1951)

The Committee notes the Government's report of 12 June 1993 and the communication from the All Pakistan Federation of Trade Unions (APFTU) of 11 October 1993. The Committee also notes the discussion which took place at the Conference Committee in 1993, which eventually led to a direct contacts mission between a representative of the Director-General and the Government which took place from 15 to 22 January 1994.

The Committee's previous observations referred to discrepancies between the national legislation and the Convention on the following points:

- ban on trade union membership and activities for employees of the Pakistan Television Corporation and the Pakistan Broadcasting Corporation;
- denial of the rights guaranteed by the Convention for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance, 1980, and section 4 of the Export Processing Zone (Control of Employment) Rules, 1982);
- exclusion of public servants of Grade 16 and above from the scope of the Industrial Relations Ordinance, 1969 (section 2(viii) (special provision));
- restrictions on recourse to strikes (sections 32(2) and 33(1) of the Ordinance);
- prohibition on minority unions from representing their members in relation to individual grievances;
- comments from the PNFTU alleging the artificial promotion of union activists as an anti-union tactic;
- denial of the right to form trade unions for employees in public and private sector hospitals.

The Committee takes note of the report of the direct contacts mission, during which all these issues were discussed with the authorities and the various workers' and employers' organizations. It further notes that the Government wishes to continue receiving technical assistance from the Office on these matters.

The Committee also notes that a tripartite task force was established recently, with a wide mandate on labour and industrial relations issues. The Committee hopes that this initiative, together with the recommendations of the direct contacts mission will soon lead to substantial progress on the above-mentioned issues, for which the Office may provide technical assistance.

Paraguay (ratification: 1962)

The Committee notes the information supplied by the Government representative at the Conference Committee in 1993 and the discussions held in the same Committee. The Committee also notes the provisions on freedom of association in the new Labour Code of 29 October 1993. The Committee recalls its previous comments referred to:

- the recognition of the right of public servants to associate only for cultural and social reasons, but not to promote and defend their occupational interests (Act No. 200, section 31);
- the ban on adopting collective resolutions against measures taken by the competent authorities (Act No. 200, section 36);
- the ban on strikes and work stoppages in too wide a range of public services which are not essential in the strict sense of the term (sections 358(c), 360 and 367 of the former Labour Code of 1961);
- the requirement of three-quarters of the workers actively employed in an enterprise, or two-thirds of the members of a union in order to call a strike (section 353 of the former Labour Code);
- referral of collective disputes to compulsory arbitration and the dismissal of workers who have stopped work before the conciliation and compulsory arbitration procedures have been exhausted (sections 284, 291, 293, 302 and 308 of the Code of Labour Procedure);
- the ban on subsidies or economic assistance for trade unions from foreign organizations (section 285 of the former Labour Code).

The Committee notes with satisfaction that the new Labour Code of 1993, by virtue of the National Constitution of 1992, repeals (Article 412) the Labour Code of 1961 thus nullifying a number of legal provisions on which the Committee has been commenting for several years.

The new Labour Code abolishes the ban on strikes in public services (sections 358(c), 360 and 367 of the former Labour Code); reduces the number of union members required to call a strike to an absolute majority (sections 363 and 298(e) and the penultimate paragraph of the new Code); abolishes the ban on subsidies or economic assistance to unions from foreign organizations (section 285 of the former Labour Code). It also allows sympathy strikes and general strikes (section 366 of the new Code).

With regard to recognition of the right of public servants to associate only for cultural and social purposes, and the ban on adopting collective resolutions against measures taken by the competent authorities, the Committee had already noted with interest that the new Constitution of 1992 establishes the right of association and the right to strike of workers in both the private and public sectors (articles 96 and 98, respectively).

The Committee notes with satisfaction that the new Labour Code (section 291) allows public service unions to represent their members before the competent authorities in order to defend their common interests (subsection (b)), to go to the relevant institutional authority with members' requests or a complaint from any member concerning treatment (subsection (c)), and to negotiate working conditions and collective labour agreements (subsection (k)). In addition, the Committee observes that section 2 of the new Labour Code excludes from the scope of the Code employees of the State in both the Central Administration and Decentralized Agencies, who come under special legislation.

The Government trusts that Act No. 200 is no longer in force, particularly sections 31 and 36 (which are contrary to the Convention), asks the Government to state whether it has been repealed and hopes that the provisions of the Convention will be taken into account when the special legislation on public servants is drafted.

While noting with interest that under article 97 of the new Constitution arbitration is optional, the Committee asks the Government to state whether sections 284, 291, 293, 302 and 308 of the Code of Labour Procedure (concerning compulsory arbitration and the dismissal of workers who have stopped work during the procedure) have been repealed.

With regard to the requirement of a minimum of 300 workers to constitute industrial unions (section 292 of the Code), the Committee considers that this number is too high and may make it difficult for workers in this sector to form unions.

With regard to the provision that only members of the enterprise and active members of a union may hold union office (sections 298(a) and 293(d)), in the Committee's opinion provisions of this kind may prevent qualified persons, such as pensioners or full-time union officers, from carrying out union duties. For the purpose of bringing legislation which restricts union office into conformity with the principle of free election of representatives, it is necessary at least to make these provisions more flexible by admitting as candidates persons who have previously been employed in the occupation or enterprise concerned and by exempting from the active membership requirement a reasonable proportion of the officers of an organization (see 1984 General Survey on Freedom of Association and Collective Bargaining, para. 117).

The Committee asks the Government to take steps, in consultation with the social partners, to amend the legislation so as to reduce the minimum number of workers required to form industrial unions and enable workers to elect their representatives in full freedom.

The Committee asks the Government in its next report to inform it of the steps taken to bring the legislation into line with the requirements of the Convention, and of developments in the preparation

and adoption of special legislation for public servants, and reminds the Government that it may request ILO technical assistance on these matters.

The Committee raises a number of other points in a request addressed directly to the Government.

Peru (ratification: 1960)

The Committee takes note of the Government's report, the provisions of the new Constitution of 1993, the provisions of the new Industrial Relations (Freedom of Association) Act of 26 June 1992 and its Regulations, and the provisional conclusions of the Committee on Freedom of Association concerning Cases Nos. 1648 and 1650 (291st Report, paras. 435 to 474, approved by the Governing Body at its 258th Session, November 1993).

The Committee recalls that its previous comments referred to:

- the prohibition placed on public servants' federations and confederations from affiliating with organizations that represent other categories of workers (section 19 of Presidential Decree No. 003-82/PCM);
- the requirement that workers must belong to the enterprise to be eligible for trade union office (Presidential Decree No. 001 of 15 January 1963), and the ban placed on trade unions from engaging in political activities (section 6 of Presidential Decree No. 009 of 3 May 1961).

With regard to the prohibition placed on public servants' federations and confederations from affiliating with organizations representing other categories of workers, in its report the Government states that industrial relations differ greatly as between the public and private sectors, since they are governed by different laws. It adds that the Industrial Relations Act applies to workers coming under the private sector industrial relations system and to workers in state establishments and enterprises of the state commercial sector. Public servants are thus excluded from the private sector system and are subject to the prohibition in section 19 of Presidential Decree No. 003-82/PCM, the public sector having its own dispute settlement machinery.

In this connection, the Committee wishes to recall that such a restriction may be applied to base-level unions and federations of public employees provided that such unions and federations may affiliate freely with confederations.

With regard to the requirement that workers must belong to the enterprise to be eligible for trade union office, the Government states that Presidential Decree No. 001 of 15 January 1963 was repealed by the Fifth Transitional and Final Provision of the Industrial Relations Act.

In this connection, the Committee notes that although the above Presidential Decree was repealed by the new Act, section 24(c) of the Act requires workers to have been in the service of the enterprise for at least one year in order to be eligible for trade union office. The Committee recalls that workers should be able to elect their

representatives in full freedom, in accordance with Article 3 of the Convention.

With regard to trade unions being prohibited from engaging in political activities, the Government states that this prohibition is maintained in section 11(a) of the Act of 1992, since unions are concerned only with labour matters and are therefore not competent to represent workers politically. However, according to the Government, the Act does not prohibit unions from expressing publicly their opinions on issues concerning state policy.

The Committee points out, as does the Committee on Freedom of Association, that the prohibition should be clearly limited to purely political matters and that unions should nonetheless be able to express publicly their opinion regarding the Government's economic and social policy.

While noting that some amendments to the Industrial Relations Act of 26 June 1992 and its Regulations should enable the Convention to be better applied, the Committee points out that the following provisions may still give rise to difficulties in applying the Convention:

- denial of trade union membership during the work probation period (section 12(c));
- the requirement of a minimum of 100 workers to form trade unions by branch of activity, occupation, or for various occupations (section 14);
- the requirement that, in order to be eligible for trade union office, workers must be active members of the union (section 24(b));
- excessive restrictions on the right to strike (in particular, sections 73(a) and (b), 67 and 83(g) and (j));
- the power of the labour authority to cancel the registration of a union (section 20 of the Act), and the requirement that the union must wait six months after the cause of the cancellation has been remedied before re-applying for registration (section 24 of the Regulations).

The Committee asks the Government to take initiatives in consultation with the social partners to amend the legislation so as to permit workers undergoing a period of probation, should they so wish, to join organizations of their own choosing; to reduce the number of workers required in order to form trade unions by branch of activity, occupation or for various occupations; to limit the prohibition of unions from involving themselves in matters concerning party politics to purely political matters; to enable workers to elect their leaders in full freedom; to allow workers to resort to strikes as a means of seeking solutions to political, economic and social issues and reduce the restrictions on calling strikes; to enable base-level public service unions to affiliate freely with confederations and ensure that cancellation of a trade union's registration is possible only through judicial channels.

The Committee asks the Government in its next report to inform it of the measures that have been adopted to bring the whole of its legislation into conformity with the requirements of the Convention.

The Committee is also addressing a direct request to the Government in which it asks for clarification of the obligation of trade unions to issue any reports which might be requested by the

labour authority; the labour authority's determination of what constitutes minimum service in the essential services in the event of conflicting opinions; and the calling of unlawful strikes.

Switzerland (ratification: 1975)

The Committee notes the Government's report and the comments of the Swiss Federation of Trade Unions (USS) on the application of the Convention.

1. Denial of the right to strike of public servants. With reference to its previous comments on the need to amend the national legislation (section 23(1) of the federal Act of 30 June 1927 banning strikes by public servants) in order to guarantee that public servants who are not agents of the public authority and their organizations have the right to strike as a means of defending their economic, social and occupational interests, the Committee notes the Government's statement in its report that the Federal Council has not yet issued any decision as to the amendments it intends to propose to Parliament in the context of the federal Act concerning the conditions of service of the public service, but that it is planned to deal with this issue in the Statement concerning the total revision of the above Act, which is to be adopted in 1994.

The Committee also notes the comments of the USS to the effect that the ban on the right to strike affects all public employees of the Confederation, regardless of their functions or the length of their appointments. The USS also considers that the fact that decisions concerning the status of public servants lie with Parliament does not release the Government from its obligation to propose the revision of the federal Act concerning public servants.

The Committee once again expresses the hope that the Statement concerning the total revision of the federal Act respecting the conditions of service of the public service will take account of the principles of freedom of association, and asks the Government to indicate any measures taken in this respect in its next report, and that it will, in particular, guarantee the right strike for the defence of their professional interests, at least to the civil servants other than those exercising authority in the name of the State (see 1994 General Survey on Freedom of Association and Collective Bargaining, para. 158).

2. Sanctions imposed upon railwaymen for striking. The Committee notes that, in its report, the Government states that no court decisions have been handed down during the period covered by the report.

It notes in this connection that the USS indicates that the workers concerned are unable, because of the type of disciplinary measures to which they are liable, to appeal to the joint disciplinary committee, that they are not entitled to appeal to the Federal Tribunal, and that the USS together with its public service federations is seeking a lower threshold for the lodging of appeals with the Federal Tribunal. According to the USS, generally speaking the protection against dismissal provided for in the law is weak,

which enables certain employers to restrict the exercise of the right to strike.

In these circumstances, the Committee must point out that under Articles 3 and 10 of the Convention workers' organizations have the right to organize their activities freely in order to promote and defend the interests of their members, including by calling strikes, and that the authorities must refrain from any intervention liable to restrict this right or to impair the legal exercise thereof. In the Committee's view, moreover, legislation should provide for genuine protection in this respect, otherwise the right to strike may be devoid of content (see 1994 General Survey, op. cit., para. 139).

The Committee recalls the Government's indication in its previous report that 11 employees of the federal railways (CFF) who were penalized for going on strike had filed a second and final appeal, and again asks the Government to provide copies of the respective judgements as soon as they have been handed down.

Trinidad and Tobago (ratification: 1963)

1. The Committee takes note of the information supplied by the Government in its report, from which it appears that several drafts have been prepared and that the Fire Service Amendment Bill 1990, the Prison Service Amendment Bill 1990, and the Civil Service (Amendment) Bill 1990 are still under discussion.

The Committee had stressed in its previous comments the need to amend provisions that afford a privileged position to registered associations, without providing objective and pre-established criteria for determining the most representative association (sections 24(3) of the Civil Service Act, 28 of the Fire Service Act and 26 of the Prison Service Act).

The Committee asks the Government to give information, in its next report, on any progress in this matter, and to indicate whether the above-mentioned Bills have been promulgated and, if so, to provide copies of the texts.

2. The Committee had also recalled the need to amend section 59(4)(a) of the Industrial Relations Act, so as to enable a simple majority of the voters in a bargaining unit (excluding those workers not taking part in the vote) to call a strike, as well as sections 61 and 65 of the same Act, to ensure that any resort to the courts by the Ministry of Labour, or by one party only, to end a strike is limited to cases of strikes in essential services in the strict sense of the term, that is to say those in which the strike would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crisis.

The Committee notes from the Government's report that these questions are still being considered and subject of further study. It notes that the Government has agreed to comprehensively review all the labour legislation, including the Industrial Relations Act, in consultation with the other social partners.

The Committee hopes that the Government will make every effort to take the necessary steps in the very near future to bring its legislation into conformity with the principles of freedom of

association. It asks the Government to give information in its next report on any measures taken in that matter and on any cases where the Ministry of Labour has had recourse to the courts to end a strike during the reporting period.

3. In its previous comments, the Committee had referred to comments by the Staff Association of the Central Bank in 1990. It had noted that, according to the Government, the Central Bank Act 1964 was being reviewed and that consideration would be given to the establishment of an appropriate mechanism to deal with the grievances of Central Bank employees. The Committee requests the Government to give full details on that question in its next report.

United Kingdom (ratification: 1949)

In its previous observation, the Committee, amongst other things, had noted with interest a resumption of the dialogue on the question of the right to organize of workers at the Government Communications Headquarters in Cheltenham (GCHQ). It expressed the firm hope that this would lead to a positive outcome satisfactory to both parties.

In a communication of 23 December 1993, the Trades Union Congress (TUC) presents its comments concerning this issue indicating, in particular, that in its view the Government still refuses to conform with the requirements of the Convention and the recommendations of the supervisory bodies.

In its reply dated 8 February 1994, which was received by the Office as the Committee had already begun its regular session, the Government indicates that further contacts and discussions have taken place with the unions on this issue since the Government last reported to the Committee in February 1993, and that this is a clear demonstration of the Government's determination to try to make progress on this difficult matter. The Government further indicates that it will report in detail on all the developments since February 1993, including a detailed response to the points raised in the TUC's letter, when it next reports to the Committee on the application of this Convention.

The Committee notes the comments submitted by the TUC and the Government's reply. It will examine the substance of this issue at its next session in the light of the Government's forthcoming report, together with the other points raised in its previous observation.

Venezuela (ratification: 1982)

The Committee notes the Government's report and the provisional conclusions of the Committee on Freedom of Association concerning Case No. 1612 (290th Report, paras. 14 to 34, approved by the Governing Body at its 256th Session, May 1993).

The Committee points out that the following provisions of the Labour Act of 1 May 1990 may still give rise to difficulties in applying the Convention:

- the requirement of too long a period of residence (over ten years) for foreign workers to be eligible for trade union office (section 404);
- too extensive and too detailed a list of attributions and purposes of workers' and employers' organizations (sections 408 and 409);
- the requirement of a minimum of 100 self-employed workers for the establishment of a union (section 418);
- the requirement of a minimum of ten employers to form an employers' association (section 419).

The Committee asks the Government to take the necessary steps, in consultation with workers and employers, to amend the legislation so that organizations may choose their leaders without hindrance and foreign workers may hold trade union office, at least after a reasonable period of residence in the country; to allow workers' and employers' organizations to specify in their statutes the attributions and purposes they wish to pursue and reduce the minimum number of self-employed workers and employers for the formation of an organization.

The Committee asks the Government to provide information in its next report on the steps taken to make the above amendments.

Yemen (ratification: 1976)

The Committee notes the Government's report and the information provided by a Government representative to the Conference Committee in June 1993.

The Committee notes that, despite the assurances given by the Government in its previous report and to the Conference in June 1993, to the effect that it was undertaking a review of the national legislation with a view to bringing it into conformity with the requirements of the Convention, the Government merely repeats in its report the comments and information provided previously.

Under these conditions, the Committee recalls that for several years its comments have concerned the need to repeal or amend the following legislative provisions:

- (a) - the prior authorization for the establishment of a trade union or a federation (sections 154 and 158 of the Labour Code of 1970; section 57 of the regulations respecting the model statutes of the General Trade Union of Manual and Non-Manual Employees);
- the inclusion of a single trade union system in the law (sections 129, 138 and 139 of the Labour Code and sections 5(h), 41, 42, 43 and 47(a) of its regulations);
 - the high number of workers required to establish trade unions (50 for a trade union or a trade union committee, and 100 for a general trade union) (sections 21, 137, 138 and 139 of the Labour Code and section 55 of its regulations),

which are contrary to Article 2 of the Convention which provides that workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own

choosing without previous authorization. The Committee also recalls that workers must be able to establish, if they so wish, trade unions outside the existing trade union structure;

- (b) - the powers of the public authorities to interfere in: (a) the financial administration of trade unions (sections 132(2) and (4) and 133(13) and (14) of the Labour Code); (b) trade union activities (section 145(2) of the Labour Code and section 34 of its regulations); and (c) the formulation of their constitutions and rules (section 150 of the Labour Code and section 62 of its regulations);
- the prohibition on political activities by trade unions (section 132 of the Labour Code); and
- the denial of the right of foreign workers to hold trade union office (section 142(3) of the Labour Code),

which are contrary to Article 3 which provides that workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom and to organize their administration and activities without interference by the public authorities;

- (c) - the restrictions placed on the activities of trade unions to support their claims (section 16 of Ministerial Order No. 42 of 1975 concerning the procedures for the settlement of industrial disputes),

which is contrary to the right of workers and their organizations to organize their activities and formulate their programmes in defence of their economic, social and professional interests, also by calling a strike without interference from the public authorities, in accordance with the principles contained in Articles 3 and 10.

The Committee recalls in this respect that any restrictions or limitations on the right to strike should be confined to public servants exercising authority in the name of the State or to essential services in the strict sense of the term, that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey on Freedom of Association and Collective Bargaining, paras. 158 and 159);

- (d) - the possibility of the dissolution of a trade union by administrative authority (section 157 of the Labour Code), which is contrary to Article 4, under which workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority.

The Committee expresses the firm hope that the Government will be able to supply information in its next report on the measures which have actually been taken to bring all of the above legal provisions into conformity with the requirements of the Convention and, in particular, to adopt the new Labour Code, the draft text of which was prepared with the technical assistance of the Office.

* * *

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

Benin, Burkina Faso, Cameroon, Canada, Djibouti, Dominica, Egypt, Ethiopia, Hungary, Jamaica, Mauritania, Paraguay, Peru, Russian Federation, Saint Lucia.

Convention No. 88: Employment Service, 1948

Algeria (ratification: 1962)

The Committee notes that the Government's report has not been received. While having noted in its observation made under Convention No. 122 the information supplied on the reorganization of the employment services, the Committee must repeat its previous observation which read as follows:

The Committee takes note of the Government's detailed report covering the period June 1988 to June 1989. The Government indicates that measures are being taken to set up efficient machinery to monitor and manage the labour market, in particular by reorganising the existing employment services and adapting their functions to present employment requirements. The Committee would be grateful if the Government would continue to supply information on the reorganisation of the employment services, along with all other available information, as required by the report form, particularly under Parts IV and VI.

Articles 4 and 5 of the Convention. The Committee notes that the question of equal representation of employers and workers on the Executive Council of the ONAMO is taken into account in the context of the draft text currently being prepared concerning the reorganisation of the above institution. It also notes that the Government intends to provide the Office with a copy of this text as soon as it is enacted. With reference to its previous comments, it trusts that the measures envisaged will be adopted in the near future and that they will enable national regulations to be brought into line with the provisions of these Articles of the Convention. The Committee also hopes that the Government will be able to provide detailed information on the manner in which representatives of the employers and workers are consulted concerning the organisation, operation and policy of the ONAMO. Other questions relating to the consultation of the social partners are raised in direct requests concerning the application of the Employment Policy Convention, 1964 (No. 122) and the Human Resources Development Convention, 1975 (No. 142).

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

Djibouti (ratification: 1978)

The Committee notes the information supplied by the Government in reply to its previous comments, but also notes that many of the Articles of the Convention are still not being applied.

Article 3 of the Convention. The Government states once again that no measure has been taken to set up a sufficient number of employment offices, despite the provisions of section 41 of Act No. 21/AN/83 first L of 3 February 1983 to organize the central administration of the Ministry of Labour and Social Welfare. The Committee notes that no progress has been achieved in this respect for several years and once again hopes that the appropriate measures will be taken in the near future to give effect to this Article of the Convention, and to the above provisions of the national legislation. It requests the Government to supply information on any progress achieved in this respect in its next report.

Articles 4 and 5. In its previous comments, the Committee noted that no arrangements had been made through the advisory committee provided for in section 162 of the Labour Code currently in force to involve the social partners in the organization and operation of the National Employment Service. The Government's report provides no new information on this aspect. The Committee therefore once again hopes that the Government will not fail to take the necessary steps in the very near future to give full effect to these Articles, which provide that suitable arrangements shall be made through advisory committees for the cooperation of representatives of employers and workers in the organization and operation of the employment service, and consultation with these representatives in the development of employment service policy. The Committee trusts that the Government will be able to describe in its next report the measures which have been taken or are envisaged and the progress which has been achieved with a view to ensuring conformity with these provisions of the Convention.

Articles 7 and 8. In its previous report, the Government stated that no measures had been taken to give effect to these Articles owing to the lack of qualified managerial staff in the placement division. The Committee nevertheless hoped that the Government would do its utmost to take appropriate measures in the very near future to meet the needs of particular categories of applicants for employment, such as persons with disabilities and juveniles, in accordance with these Articles. It hopes that the Government will be able to describe the progress achieved on these points in its next report.

Article 9, paragraph 4. The Committee notes from the Government's report that the project for the specialized training of managerial staff, financed by the EC and the World Bank, has come to an end. It would be grateful if the Government would indicate any action taken to continue the provision for adequate training of staff for the performance of their duties in the employment service, in accordance with these provisions of the Convention.

Point VI of the report form. The Committee would be grateful if the Government would continue to supply information on any practical difficulties encountered in the implementation of the Act of 1983 and in the application of the Convention. The Government may find it helpful to have some assistance from the ILO on certain aspects of the application of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Peru (ratification: 1962)

With reference to its previous comments, the Committee notes the information provided by the Government in its report concerning the new measures taken with a view to the extension of the network of employment offices to the peripheral zones of the capital, as well as statistical information concerning the activities of the public employment service supplied in accordance with point IV of the report form. The Committee also notes the adoption of the Act on Employment Protection, 1991.

Articles 4 and 5 of the Convention. The Committee notes very brief indications in the Government's report concerning contacts it maintains with industrial relations bureaux of private sector enterprises in order to increase awareness of the employment services system. With reference to the comments it has been making over a number of years on the same subject, the Committee once again expresses the hope that the Government will not fail to provide in its next report information on measures taken with a view to establish advisory committees through which suitable arrangements should be made for the cooperation of representatives of employers and workers in the organization and operation of a national system of the employment service and in the development of employment service policy, as required by these Articles.

[The Government is requested to report in detail for the period ending 30 June 1994.]

Philippines (ratification: 1953)

Articles 4 and 5 of the Convention. The Committee notes the information provided by the Government in reply to its earlier comments. It notes in particular the establishment of 75 public employment service offices (PESOs) located in different parts of the country. The Government indicates that the PESOs have been established in coordination with the local government units and non-governmental organizations, including labour and employer organizations. While noting this information, the Committee would like to draw the Government's attention once again to the provisions of Article 4, paragraphs 1, 2 and 3, according to which "suitable arrangements shall be made through advisory committees for the cooperation of representatives of employers and workers in the organization and operation of the employment service and in the development of employment service policy"; "these arrangements shall provide for one or more national advisory committees and where necessary for regional and local committees"; "the representatives of employers and workers on these committees shall be appointed in equal numbers after consultation with representative organizations of employers and workers". Further, Article 5 stipulates that "the general policy of the employment service in regard to referral of workers to available employment shall be developed after consultation of representatives of employers and workers through the advisory committees provided for in Article 4".

The Committee therefore reiterates its hope that the Government will adopt appropriate measures in the very near future in order to give effect to the provisions of these Articles and asks the Government to provide, in its next report, information on progress made in this regard.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Sierra Leone (ratification: 1961)

With reference to its earlier comments, the Committee notes from the Government's report that the draft Employment Service Regulations to which the Government has been referring since 1974 have still not been adopted. The Government indicates once again that the question of the adoption of the draft Regulations is still on the agenda of the next meeting of the Joint Consultative Committee.

The Committee reiterates its hope that the new provisions will be adopted in the very near future and that the next report will contain the information previously requested on: (a) the setting up of national, and where necessary regional and local, advisory committees ensuring the participation of employers' and workers' representatives in equal numbers in the organization and operation of the employment service and in the development of the general policy of this service, in accordance with Articles 4 and 5 of the Convention; and (b) the determination of the functions of the employment service in accordance with Article 6.

The Committee invites the Government to consider the possibilities for using ILO technical cooperation to achieve improved implementation of the Convention.

[The Committee asks the Government to supply full particulars to the Conference at its 81st Session and to report in detail for the period ending 30 June 1994.]

Singapore (ratification: 1964)

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

Articles 4 and 5 of the Convention. The Committee notes from the Government's reply to its earlier comments that ad hoc tripartite advisory committees on issues related to the different aspects of employment have often been set up to obtain views from workers' and employers' representatives. It also notes the Government's view expressed in the report that with regular consultations with the employers' and employees' organisations and the setting up of such ad hoc committees, there is no need to establish a tripartite employment service advisory committee. However, the Committee would like to recall that these Articles of the Convention require the establishment of advisory committees ensuring the co-operation of employers' and workers' representatives, appointed in equal numbers, in the organisation

and operation of the employment service and in the development of the general policy of this service. The Committee reiterates its hope that the Government will not fail to give consideration to the establishment of an appropriate body to discharge these functions and to give fuller effect to the provisions of these Articles. It asks the Government to report any progress made in this connection.

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

United Republic of Tanzania (ratification: 1962)

Tanganyika

The Committee notes the information provided by the Government in reply to its earlier comments. It notes, in particular, the information concerning the elaboration, with the technical assistance of the ILO, of the project document concerning the establishment of Employment Promotion Offices (EPOs), which would perform the role of the former employment exchanges. The Government informs of its intention to open such offices in three regions in the financial year 1992-93. The Committee would be grateful if the Government would keep it informed of the new developments in this sphere. It reiterates its hope that the Government will not fail to supply, in its next report, information on measures taken in this connection with a view to ensure full application of Article 6 (employment service's functions) and Article 7 (measures to facilitate within the various employment offices specialization by occupation and by industries, and to meet the needs of particular categories of applicants, such as disabled persons) of the Convention.

The Committee also notes from the Government's report the information concerning action taken as a result of preparation of various youth programmes and consultancy services. The Government indicates that there is a lack of combined efforts in this sphere and highlights the need to have a comprehensive employment programme which is being prepared by a team of experts. The Committee asks the Government to continue to describe the developments in this field, and more particularly, special arrangements for juveniles made within the framework of the employment and vocational guidance services, in accordance with Article 8.

The Committee reiterates its hope that the Government will provide statistical information, as soon as it becomes available, in accordance with point IV of the report form.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Zaire (ratification: 1969)

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

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

Article 3 of the Convention. The Committee notes with interest that the Department of Employment and Social Insurance is progressively continuing to establish employment offices in the regions, and that three employment offices have been opened respectively in Kinshasa, Lubumbashi and Kisangani. It also notes the Government's statement that this programme is being continued in the eight other regions of the country. The Committee hopes that in the near future the Government will be able to report that new progress has been achieved in the development of a network of employment offices, in accordance with this Article of the Convention.

Articles 4 and 5. The Committee notes that the draft ordinance, establishing the new National Employment Service, was submitted for examination by the Executive Council and that representatives of employers and workers took an active part in all the discussions on the organisation and discussion of the National Employment Service at the 21st Session of the National Employment Council. The Committee hopes that the Government will supply additional information in its next report in order to give fuller details on the arrangements that have been made, in accordance with these provisions of the Convention, for the cooperation of representatives of employers and workers in the organisation and operation of the employment service and the development of the policy of this service.

Application in practice and other information required by the report form. The Committee notes the Government's concern to improve the collection of statistics related to the application of the Convention. It hopes that the Government will be able to furnish in due time, the statistical information that has been published (particularly concerning the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment), and any relevant general appreciation of the manner in which the Convention is applied, in accordance with points IV and VI of the report form. Please also supply the ILO with the text of the above ordinance once it has been adopted.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bahamas, Belize, Brazil, Central African Republic, Ethiopia, Finland, Greece, Guatemala, Guinea-Bissau, Kenya, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mozambique, Nicaragua, Nigeria, Romania, San Marino, Sao Tome and Principe, Spain, Suriname, Thailand, Turkey, Venezuela.

Convention No. 89: Night Work (Women) (Revised), 1948 [and Protocol, 1990]Bangladesh (ratification: 1972)

The Committee notes the Government's report. It also notes the comments of the Bangladesh Employers' Association, which were attached to the Government's report, to the effect that the Government should consider ratifying the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948.

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

Brazil (ratification: 1955)

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

In its previous direct request, the Committee noted that, following the promulgation of the new federal Constitution of 5 October 1988, there is no longer any prohibition on night work for women in industry, as this is considered as discrimination against women.

The Committee was bound to note that the Convention was no longer being applied. It hoped that the Government would therefore be able to re-examine the situation in the light of its obligations deriving from the ratification of the Convention.

The Committee notes the Government's statement that it intends to denounce the Convention and to ratify the Night Work Convention, 1990 (No. 171). The Committee requests the Government to keep it informed of any measure taken in this respect.

Dominican Republic (ratification: 1953)

The Committee notes the information supplied by the Government and in particular the ratification of the Night Work Convention (No. 171). The Committee notes with interest the Government's statement that, with the ratification of Convention No. 171, the rules on night work are to be consolidated. The Committee asks the Government to keep it informed of any changes in the legislation or in its application in practice.

Ghana (ratification: 1965)

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

Article 4(a) of the Convention. The Committee referred to its previous comments which it has reiterated for several years concerning the need to amend section 41(2)(a) of the Labour Decree of 1967 which, contrary to the Convention, permits the suspension of the prohibition of night work by women when work is interrupted by reason of a strike. The Committee noted that the

necessary steps have still not been taken to bring the legislation into conformity with the Convention.

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

Kuwait (ratification: 1971)

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

Article 1, paragraph 1, of the Convention. In the comments which it has been making for many years, the Committee has pointed out the need to extend the scope of the Convention to certain categories of workers not covered by the Labour Law (Private Sector) of 1964 (that is, workers in enterprises operating without recourse to power and employing less than five persons, and casual and temporary workers engaged for periods of less than six months). It noted that the Bill to amend Law No. 38 of 1964, which is currently in force, is intended to include the categories of workers which are excluded from the above Law. The Committee notes from the Government's report that the Government will supply a copy of the Labour Code for the private sector as soon as it is adopted. The Committee hopes that the necessary changes will be made to the Labour Code for the private sector to give effect to the provisions of the Convention.

Panama (ratification: 1970)

The Committee notes that the Government states once again that it is examining the possibility of denouncing the Convention for economic and social reasons. It notes the Government's statement in its report that, in view of the other priorities in social affairs, consultations with the organizations of employers and workers on this matter have not yet taken place.

The Committee recalls that, since the ratification of the instrument in 1970, the Government has not indicated in its reports that any measure has been taken or is envisaged to bring the law or practice into conformity with the Convention in respect of prohibiting the night work of women employed in industry.

The Committee requests the Government to indicate the measures which have been taken to bring national law and practice into conformity with the international commitments which have been undertaken.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Philippines (ratification: 1953)

1. The Committee notes the Government's report. In its previous comments, the Committee noted that section 130 of the Labour

Code prohibits the employment of women in industrial undertakings between 10 p.m. and 6 a.m., representing a period of only eight hours while under Article 2 of the Convention, the prohibition of night work shall cover a period of at least 11 consecutive hours.

The Committee notes from the Government's report, that no conclusive decision has been reached on the strict prohibition of night work. The Government states that the compelling need for night work is dictated by the prevailing economic situation. Thus, while it recognizes the objectives of the Convention to protect working women, it finds it increasingly difficult to adopt rigorously such a provision because its feasibility is widely questioned, particularly on pressing economic and social grounds.

The Committee hopes that the necessary measures will soon be taken to bring the legislation into conformity with the Convention and that the Government will soon be in a position to report the provisions adopted to this end. It recalls in this connection the adoption by the ILC of the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948, in order to allow greater flexibility.

2. The Committee had previously noted that under section 131(e) of the Labour Code and section 5(e), Chapter XI, Book III of the Regulations under the Labour Code, the prohibition of night work by women does not apply (i) where the manual skill and dexterity required for the work is an attribute of female workers and where this work cannot be carried out with the same efficiency by male workers, and (ii) where the employment of women constitutes an already established practice in the enterprises concerned at the date when the Regulations under the Labour Code came into force. These exceptions are not authorized by the Convention.

The Committee notes from the Government's report that a comprehensive review of the Labour Code Project is currently being undertaken by the Department of Labour and Employment in order to review the existing Labour Code provisions and come up with concrete proposals and recommendations for its amendment. It notes also that the Bureau of Women and Young Workers submitted a recommendation proposing to amend section 131 by the deletion of paragraph (e) and its implementing rule provided under Book III, Rule XII, section 5(e) (formerly Rule XI, section 5(e)).

It hopes that the necessary measures will be taken in conformity with the Convention and that they will be adopted in the near future.

South Africa (ratification: 1950)

In its previous comments, the Committee noted that under the Basic Conditions of Employment Act, 1983, the Labour Relations Act, 1956, and the Wage Act, 1975, the prohibition of the night work of women had been abolished. It once again hoped that the Government would re-examine the situation in the light of the obligations deriving from the ratification of the Convention.

The Committee notes from the Government's report that national legislation does not establish a distinction between men and women workers and therefore does not contain any provision prohibiting the night work of women. It also notes the Government's statement that, if

it once again became a Member of the ILO, it would envisage ratifying Convention No. 171.

The Committee hopes that the Government will be in a position to supply information on any progress achieved in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Bolivia, Egypt, India, Lebanon, Slovakia, Slovenia and Swaziland.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

Mexico (ratification: 1956)

1. The Committee notes with interest the Decree stating that articles 3 and 21(I) of the Political Constitution of the United States of Mexico have been amended (Official Gazette of 5 March 1993).

2. Article 2 of the Convention. In previous comments the Committee has pointed out that section 60 of the Federal Labour Act, which sets an interval of ten consecutive hours during which night work of young persons under 18 years of age is prohibited in industry, is not consistent with the provisions of this Article of the Convention which lays down a period of 12 consecutive hours. The Committee has also pointed out that, in their present wording, the provisions of sections 60 and 175 of the above-mentioned Act allow a rest period of less than 12 consecutive hours between work periods. For example, a young person working from 12 noon until 8.00 p.m. and resuming work on the following day at 6.00 a.m. would have only ten consecutive hours of rest instead of the 12 hours provided for in this Article of the Convention. The Government repeats that the Mexican legislation, specifically section 60 of the Federal Labour Act, is in no way inconsistent with Article 2 of the Convention, but that if it were, the text of the Convention would prevail wherever it is to the advantage of the worker. The Government adds that the foregoing is established in article 133 of the Constitution which gives the Convention precedence over all other laws and incorporates it into domestic legislation.

The Committee notes this information and trusts that the Government will take the necessary measures to bring the Federal Labour Act fully into conformity with the Convention. It asks the Government to report on any progress made in this respect.

Philippines (ratification: 1953)

Article 2, paragraphs 1 and 3, of the Convention. In its previous comments, the Committee pointed out that the regulation issued by Directive No. 23 of 30 May 1977, which prohibits night work for young persons under the age of 16 in the interval between 10 p.m. and 6

a.m., was not in conformity with the provisions of the Convention under the terms of which the prohibition should cover a period of at least 12 consecutive hours, including the interval between 10 p.m. and 6 a.m.

The Committee notes from the Government's report that present efforts have been directed at consulting with the sectors concerned regarding the prohibition of night work with a view to regulating the hours of work of young persons. It further notes that a comprehensive review of the existing Labour Code is currently being undertaken by the Department of Labour and Employment with a view to making concrete proposals and recommendations for its amendment. The Committee once again hopes that the necessary measures will be adopted in the near future to revise the above-mentioned Directive and would be grateful if the Government would indicate all progress made in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Cuba, Greece, India, Peru, Saudi Arabia, Slovakia, Slovenia and Swaziland.

Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949

Norway (ratification: 1950)

Further to its previous comments, the Committee notes with satisfaction that Act No. 21 of 1988 on annual leave now applies to work on board ship, so that when an annual holiday is due it is given by mutual agreement at the first opportunity as the requirements of the service allow, in conformity with Article 4(1) of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti and Guinea-Bissau.

Convention No. 92: Accommodation of Crews (Revised), 1949

Algeria (ratification: 1962)

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

With reference to its previous comments, the Committee notes that no legislation has yet been adopted setting out detailed crew accommodation requirements in accordance with Articles 6 to 17 of the Convention and that no measure appears to have been taken to this end despite the Government's statement in its

previous report that the Ministry of Transport was examining the matter. In this respect, the Committee recalls that, as provided by Article 3, paragraph 1, "each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of this Convention". The Committee once again hopes that the necessary measures will be taken in the very near future and that the next report will contain appropriate information in this respect.

Point V of the report form. The Committee notes the inspection reports supplied by the Government. It notes that these do not deal specifically with the application of the Convention and only concern annual inspection visits and visits upon the departure of the vessel. It hopes that in future the Government will be in a position to supply reports containing specific information concerning the application of the provisions of the Convention and concerning inspections carried out when a ship is registered or re-registered, when the crew accommodation of a ship has been substantially altered or reconstructed, or following a complaint by the members of the crew to the competent authority, as provided by Article 5.

Brazil (ratification: 1954)

Further to its previous comment, the Committee notes the information supplied by the Government in its report. It notes in particular that, following the repeal of Decree No. 46130 of 2 June 1959 (under which the Convention was previously applied) by the Decree of 10 May 1991, no legal text appears to have been adopted to ensure the application of the Convention. It notes that, in accordance with the Brazilian legal system, the ratification of a Convention has the effect of giving it the force of law. Nevertheless, the Committee draws the Government's attention to the obligation deriving from Article 3 of the Convention to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of the Convention. It requests the Government to take the necessary measures to adopt the above legislation in the very near future.

Furthermore, the Committee notes the information supplied by the Government concerning the operation of the inspection system. It would be grateful if the Government would indicate how inspection activities are coordinated between the Ministry of the Merchant Navy and the Ministry of Labour and supply extracts of inspection reports indicating that the conformity of the accommodation of crews has been verified in relation to the requirements set out in the Convention, as called for under point V of the report form.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Liberia (ratification: 1977)

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

The Committee notes that, whilst certain provisions have been supplied in relation in particular to the inspection of crew accommodation, there appears still to be none of the detailed regulation of crew accommodation required by Part III of the Convention. The Committee hopes that the legislation necessary to ensure the application of the Convention in full will soon be enacted, and that the Government will supply a report including full details.

Panama (ratification: 1971)

The Committee notes the information supplied by the Government in reply to its previous comments. It notes from the report on the application of Convention No. 73 that the Legislative Assembly has approved in plenary the Bill regulating work at sea and on waterways which was to ensure, to some extent, the application of Articles 6, paragraph 8 (fire-prevention measures), Article 7, paragraph 4 (ventilation of ships engaged outside the tropics), Article 9, paragraph 3 (additional lighting), Article 10, paragraphs 4, 5, 6, 8, and 9 (sleeping rooms), Article 11, paragraphs 1, 2, 3, and 4 (mess rooms), and Article 13, paragraphs 1, 2, 3, 4 and 5 (sanitary accommodation) of the Convention. It also notes that the above Bill contains provisions on inspection to ensure the application of the Maritime Labour Act and laws and regulations on the working conditions of crews, including those that apply the Convention. The Committee would be grateful if the Government would provide a copy of the final version of the above-mentioned Bill as adopted.

Point V of the report form. The Committee notes the information on the functioning of the inspection system to the effect that it has been strengthened in recent years and that 29 national and international companies are now authorized by the General Directorate for Consular and Shipping Affairs to issue technical certificates proving that the inspection required by the Convention has been carried out. The Committee also notes the statistical information for 1989-1991 provided with the report. It would be grateful if the Government would provide updated statistics as soon as it receives them from the Maritime Safety Office (SEGMAR) in New York.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

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

Convention No. 94: Labour Clauses (Public Contracts), 1949Brazil (ratification: 1965)

Further to its previous observations, the Committee notes the Government's report as well as the attached Act No. 8666 of 21 June 1993, which sets out standards on public administration tenders and contracts.

The Committee notes the Government's indication that, under section 88 of the Act providing for the disqualification of any contracting party that has acted illegally with intent to impede compliance with bidding objectives, failure to comply with collective agreements should give rise to appropriate action. The Committee would point out that the aim of Article 2, paragraphs 1 and 2 of the Convention is to ensure that the workers concerned enjoy wages and other labour conditions not less favourable than those normally observed for the kind of work in question, whether such workers are covered by collective agreement or not. The Convention requires, for this purpose, the insertion of appropriate labour clauses in public contracts. The provisions of the Act cited by the Government (such as section 3, paragraph 1, item II, prohibiting differential treatment between Brazilian and foreign enterprises in various aspects including labour, section 29, item IV requiring a proof of up-to-date payment of social contributions, section 71 providing for the contracting parties' responsibility for labour, social security and other contributions) are not sufficient to fulfil this requirement of the Convention.

The Committee again suggests that the Government consider consulting the International Labour Office when taking necessary steps to apply the Convention, for example, by amending the above-mentioned Act to add labour clauses in the obligatory clauses for public contracts under its section 55 or by stipulating the insertion of such clauses in public contracts by means of regulations concerning the application of the Act or of forms for tendering. The Committee also points out, under Article 2, paragraph 3, the competent authority is to determine the terms of the labour clauses to be included in public contracts in the manner considered most appropriate to the national conditions, after consultation with the employers' and workers' organizations concerned.

The Committee hopes that the Government will soon be able to ensure the conformity with the provisions of the Convention.

Egypt (ratification: 1960)

The Committee has been pointing out in its comments for a number of years that the application of the general labour legislation to contracts of employment does not suffice for the application of Article 2 of the Convention. It notes that no measures have been taken to give effect to it.

The Government once indicated in its earlier reports certain actions to circulate instructions that a clause should be included in all public contracts in order to guarantee to the workers concerned

conditions of labour not less favourable than those of other workers performing the same work. The Committee notes that no further information has been supplied in this regard.

In the last report, the Government again refers to section 57 of the Labour Code (No. 137 of 1981) and to section 1 of the Act No. 48 of 1978 concerning workers in the public sector. The Government considers that, because these provisions are applied, it is unnecessary to provide for a labour clause.

The Committee points out that items (a), (b) and (c) of Article 2, paragraph 1, do not stipulate the manner in which the Convention should be applied. The requirement of the Convention under this provision is to ensure to the workers employed by a contractor, the prevailing labour conditions which have been established in either of these three ways. And, as a method to attain this purpose, the Convention provides for the insertion of a labour clause in public contracts. The principal aim of a labour clause is to protect fair conditions of labour from the consequences of competitive practice of tendering for a public contract. The Committee recalls that section 57 of the Labour Code concerns the equality of treatment between a subcontractor's own workers and those of the employer. Section 1 of Act No. 48 of 1978 provides that the Labour Code remains applicable in all cases not covered by the Act. Neither of these provisions can ensure the above-mentioned purpose of labour clauses in public contracts. The Committee would again point out that the application of the general labour legislation is not enough on its own to ensure the application of the Convention, in as much as the minimum standards fixed by law are often improved upon by means of collective agreement or otherwise. The Committee would also draw the Government's attention to the provision of Article 2, paragraph 3, calling for consultation with organizations of employers and workers in determining the terms of clauses to be included. The Committee hopes that necessary measures will soon be taken to ensure the insertion of a labour clause in public contracts in accordance with the provisions of the Convention.

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

Convention No. 95: Protection of Wages, 1949

Argentina (ratification: 1956)

1. The Committee notes the observations made by the Unique Workers' Central (CUT) of Brazil and by the Union of United Maritime Workers (SOMU) of Argentina on the application of the Convention in Argentina. The Government has not communicated its comments on these observations.

The CUT alleges, among other things, that some Brazilian workers engaged in civil construction in Argentina received their wages only on their return to Brazil and expresses concern on the possibilities of such occurrences in the framework of the MERCOSUR (Southern Cone Common Market). The Committee invites the Government to comment on this point in the light of Article 12(1) of the Convention (regular payment of wages).

2. The Committee also notes the observations made by the Congress of Argentinian Workers (CTA) on the application of several Conventions, in which CTA refers to Decrees Nos. 1477 and 1478 of 1989 and No. 333 of 1993, and to Act No. 23.982 of 22 August 1991.

The Committee notes that Decrees Nos. 1477 and 1478 establish the social benefit (assistance to the family food basket and food vouchers) for the worker and his family. The amount of the basket or the voucher which the employer provides to the worker under these rules cannot exceed 20 per cent of the gross wage, and this benefit is not considered as a part of the remuneration, according to section 105bis of the rules governing employment contracts approved by Act No. 20744, as amended by section 1 of Decree No. 1477. Section 1 of Decree No. 333 of 1993 enumerates the benefits, including those under Decrees 1477 and 1478/1989, that do not have the character of remuneration. And it provides that these benefits cannot be provided as a substitute or an advance of remuneration. The Committee recalls that the definition of the term "wages" under Article 1 of the Convention covers remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement, that Article 3 prohibits wage payment in the form of vouchers, and that Article 4 permits the partial payment of wages in kind only under certain conditions. It requests the Government to supply information on the application in practice of the above-mentioned Decrees in the light of these provisions of the Convention.

The Committee also notes the CTA's allegation that, two years after the enactment of Act No. 23.982 concerning the consolidation to the national State of monetary debts up to 1 April 1991 after administrative or judicial recognition, no certificate recognizing such a debt has been handed over. The Committee invites the Government to provide its comments on this question with particular reference to any debt owed to workers in the public sector as their wages.

3. The Committee is also addressing a direct request to the Government concerning the observations made by the Union of United Maritime Workers (SOMU).

[The Government is asked to report in detail for the period ending 30 June 1994.]

Brazil (ratification: 1957)

1. The Committee notes the observation made by the Unique Workers' Central (CUT) concerning the application of the Convention. The CUT alleges, among other things, that some Brazilian workers engaged in civil construction in Argentina received their wages only on their return to Brazil, and expresses concern on the possibilities

of such occurrences in the framework of the MERCOSUR (Southern Cone Common Market). The Committee notes that the Government has not communicated its comments on this observation, which concerns the application of Article 12(1) of the Convention (regular payment of wages), and requests it to do so.

2. As to the points raised in the Committee's previous observation concerning Articles 6, 8, 9 and 10, which was made with reference to its comments on Conventions Nos. 29 and 105, it notes that the Governing Body at its 258th Session (November 1993) entrusted the examination of a representation made by the Latin American Central of Workers (CLAT) under article 24 of the Constitution, alleging non-observance by Brazil of Conventions Nos. 29 and 105 to a tripartite committee. In accordance with its customary practice, the Committee is postponing its comments on these points pending the Governing Body's action on the conclusions and recommendations of the above-mentioned committee.

Egypt (ratification: 1960)

Article 4, paragraph 2, of the Convention. With reference to its previous observation, the Committee notes the Government's indication that allowances in kind supplement cash remuneration and that, according to the case-law in Egypt, the employer cannot abolish or reduce the allowances in kind, because they are considered as remuneration as long as they are granted as a counterpart of work.

The Committee points out that this does not ensure the conditions laid down in the above provision of the Convention, namely: (i) that allowances in kind should be appropriate for the personal use and benefit of the worker and his family; and (ii) that the value attributed to such allowances should be fair and reasonable. The Committee reiterates its hope that necessary action will soon be taken to ensure the compliance with the Convention on this point, on which it has been commenting for a number of years.

Syrian Arab Republic (ratification: 1957)

Articles 8(1) and 11(1) of the Convention. Further to its previous observation, the Committee notes the Government's indication in the report that a revised draft Legislative Decree has been submitted anew to the Presidency of the Council of Ministers to amend certain provisions of the Labour Code. The Committee notes from the attached text of the revised draft that section 88(a) as amended would extend the wage protection under certain provisions (respecting limitations on deductions from wages and the protection of wages in cases of employer's bankruptcy) to temporary workers who are excluded from the coverage of the rest of the provisions of Book II, Chapter II of the Code.

The Committee hopes that the Legislative Decree will soon be adopted and requests the Government to supply its copy once it has been adopted.

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In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Argentina, Central African Republic, Lebanon, Saint Lucia, Slovakia, Solomon Islands, Yemen.

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Pakistan (ratification: 1952)

Part II of the Convention. 1. In its report for the period July 1991-June 1992, the Government indicates once again, as in its previous reports since 1987, that the draft Rules under the Fee-Charging Employment Agencies (Regulation) Act, 1976, have been formulated and circulated to the provincial governments for their comments. The Government repeats that these Rules still have not been finalized. The Committee notes that the Government's report due for the period ending 30 June 1993 has not been received. It must therefore reiterate its hope that the Government will not fail to take the necessary measures with a view to bring the Act into operation in the nearest future in order to give legislative effect to the requirement of the Convention concerning the abolition of fee-charging employment agencies "within a limited period of time", but not "until a public employment service is established" (Article 3 of the Convention).

2. In its earlier comments, the Committee also noted the information supplied by the Government as regards the regulation of the "overseas employment promoters", under the Emigration Ordinance, 1979, and Rules made thereunder. It notes the observations made in October 1993 by the All Pakistan Federation of Trade Unions stating that effective measures should be taken with a view to supervision of agencies for recruiting the workers abroad. The Committee therefore would be grateful if the Government would make its observations on the matters raised in this communication and, more generally, would continue to supply, in its future reports, any relevant information on the fee-charging employment agencies for which exceptions are allowed under Article 5 of the Convention, as required under Article 9 of the Convention (number of agencies concerned, scope of their activities, reasons for the exceptions, supervision of their activities).

3. Please give a general appreciation of the manner in which the Convention is applied, including, for instance, extracts from official reports, information regarding the number and nature of the contraventions reported, and any other particulars bearing on the

practical application of the Convention, as required by point V of the report form.

[The Committee asks the Government to supply full particulars to the Conference at its 81st Session and to report in detail for the period ending 30 June 1994.]

Syrian Arab Republic (ratification: 1957)

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

Part II of the Convention. With reference to its earlier comments, the Committee notes from the Government's reply to its previous observation that the Bill to repeal sections 18 and 22 of Labour Code No. 91 of 1959, which authorised the setting up of private employment agencies, and to amend section 11 of the Code so as to extend to domestic and similar workers the application of the chapter concerning placement of unemployed persons, is currently being examined by the Council of Ministers with a view to its enactment. The Committee trusts that these changes to the Labour Code, on which it has been commenting for many years, will be adopted in the very near future and will ensure that the national legislation is in full conformity with this part of the Convention. The Committee notes the Government's assurances that it will transmit all further information on this matter to the ILO, and hopes that the next report will confirm that progress has been made towards taking full account of the Committee's repeated comments.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Ethiopia, France, Malta, Mexico, Spain.

Convention No. 97: Migration for Employment (Revised), 1949

Brazil (ratification: 1962)

The Committee takes note of the observation made by the Unique Workers' Central (CUT) concerning the application of the Convention. The CUT alleges, among other things, that some Brazilian workers engaged in civil construction in La Plata (Argentina) by three Brazilian employment agencies enjoyed no insurance coverage, were inadequately lodged and had to undertake working weeks of over 44 hours, for daily wages of US\$6, whereas Argentinian workers were paid US\$46 per day. Furthermore, these wages were only paid upon returning to Brazil, after deduction of expenses incurred during their stay in

the receiving country. Similar working conditions and discrepancies in the wage levels had been encountered by Brazilian workers on a construction site in Quilmes (Argentina).

The Committee notes that the Government has not communicated its comments on this observation and invites it to do so, taking into account especially the provisions of Article 3, paragraphs 1 and 2, and Article 7, paragraph 1, of the Convention, as well as Articles 3, paragraphs 3(b), and 4, of Annex I.

Spain (ratification: 1967)

The Committee notes the comments made by the Democratic Confederation of Labour (CDT) of Morocco on the application of this Convention and of Convention No. 117, as well as the Government's observations on these matters.

CDT alleges that during an incident in the port of Algeciras, Moroccan migrants received bad treatment by the Spanish Civil Guard forces in an incident which resulted in dozens injured and three missing. According to the Government, this occurred on 18 July 1993 within the framework of an operation by the National Police Corps to repatriate 166 immigrants with false documentation. The Government indicates that, when the ferry boat carrying these expelled migrants commenced its manoeuvre to leave the dock, two persons fell into the water and that, despite the intervention of the Civil Guard forces, a patrol boat of the Maritime Service and a team of divers, these individuals were not found. The Government states that the forces of public order followed general standards of action, involving the greatest care and respect to the persons concerned. The Committee takes due note of the above information.

The Committee notes that the Government further describes in detail a series of meetings held between the Governments of Spain and of Morocco concerning the above-mentioned incident, following which the Government considers it useful for the two countries to cooperate closely in their battle against organized clandestine migration.

The Committee requests the Government to continue providing information on any measures taken in this regard, in the light of Article 4 of the Convention.

The Committee is also addressing a direct request to the Government on certain points.

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In addition, requests regarding certain points are being addressed directly to the following States: Guyana, Malaysia, Saint Lucia, Spain.

Convention No. 98: Right to Organise and Collective Bargaining, 1949Argentina (ratification: 1956)

The Committee notes the Government's report and the comments of the United Teachers' Trade Union of Buenos Aires of March 1992, the Trade Union of United Seafarers of March 1993, and the Argentinian Congress of Workers of June 1993 concerning the restrictions on collective bargaining in various sectors (public enterprises, the maritime and education sectors, and the private sector), and in particular concerning Decree No. 1334/91 of 15 July 1991, which restricts any wage negotiations to the increase in productivity, with the exclusion of any other parameter; Decree No. 1757/90 of 5 July 1990, which permits the nullification of clauses in collective agreements which in the opinion of the State are prejudicial to the productivity and efficiency of public enterprises; Decree No. 435/90 of 4 March 1990, which fixes a minimum wage for all public activities, irrespective of whether or not they are covered by a collective agreement; and Decree No. 817/92 of 26 May 1992, which suspends the application of clauses in collective agreements or in legal contracts which establish conditions of employment which are prejudicial to productivity in the merchant navy and ports sector.

With reference to its previous comments on the obligation that collective agreements, in order to be approved, should not contain "clauses which infringe the norms of public order or standards issued in the protection of the general interest" (section 3 of Act No. 23545), the Committee regrets that the Government has confined itself to supplying information of a general nature on case-law in this respect and has not replied in a substantive manner to its questions.

The Committee recalls that a system of official approval is acceptable insofar as the approval can only be refused on grounds of form and where the clauses of a collective agreement do not conform to the minimum standards set out in the labour law. The Committee also notes with concern that in Cases Nos. 1560, 1567 and 1639, the Committee on Freedom of Association noted that, both in the public and private sectors, decrees which make it possible to waive provisions of collective agreements if they are prejudicial to productivity do not encourage the full development and utilization of machinery for voluntary negotiation of terms and conditions of employment. The Committee is bound to emphasize that interference by governments in collective bargaining over many years restricts the right of workers and employers to negotiate freely their terms and conditions of employment. The Committee emphasizes that in cases of economic difficulty, the Government should resort to persuasion rather than constraint, it being understood that the final decision in the matter rests with the parties to the agreement.

Therefore, whilst recognizing the specific features of the collective bargaining system in the country, the Committee requests the Government to inform it of any measure which is envisaged or adopted to encourage the voluntary negotiation without impediment of terms and conditions of employment in both the public and the private sectors.

Austria (ratification: 1957)

The Committee notes the Government's report.

With reference to the comments which it has been making for many years concerning the need to adopt legislative measures for the protection against unlawful dismissals (in particular for trade union activities) of workers in enterprises with fewer than five employees, the Committee notes with regret that Act No. 502 of 1993 has not amended the Collective Labour Relations Act of 1974 on this point.

The Committee notes in this respect the Government's statement in its report that the Ministry for Labour and Social Affairs is still endeavouring to extend the general protection against dismissal for trade union activities to enterprises employing fewer than five employees and that, after long discussions with the social partners, it has been possible to achieve substantial improvements in the social field. The Government however adds that the adoption of all the claims which were made would not have been approved by Parliament and would have endangered the other improvements obtained by the workers.

The Committee once again requests the Government to take measures as soon as possible to provide workers employed in enterprises with fewer than five employees with adequate protection against dismissal, particularly when the dismissal is on grounds of trade union activity, in accordance with Article 1 of the Convention. It requests the Government to indicate any progress achieved in this respect in its next report.

Bangladesh (ratification: 1972)

The Committee notes the Government's report, the observations of the Bangladesh Employers' Association (BEA) of 15 July 1991 and 13 October 1993, as well as the observations of the Bangladesh Workers' Federation (BWF) dated 30 January 1993.

Voluntary bargaining in the private sector

The Committee had observed that section 7(2) of the Industrial Relations Ordinance, 1969, read with sections 22 and 22A, may serve to impair the development of effective bargaining in the small business sector by inhibiting the development of industry or sectoral unions.

The Committee notes that the Government as well as the BEA repeat their previous statement that under sections 7(2) of the Industrial Relations Ordinance, workers are free to unite and set up organizations of their own choice, they are allowed to raise industrial disputes and proceed to negotiate under provisions of sections 26, 27(A), 28, 29(A), 30 and 31 of the Ordinance. The Committee notes that, according to information provided by the Government in a previous report, wages and conditions of work in small industries are determined by the Minimum Wages Board. The Committee asks the Government to indicate the measures taken, in keeping with Article 4 of the Convention, to encourage and promote the development and utilization of machinery for the voluntary negotiation of

collective agreements on terms and conditions of employment, particularly in the small business sector, and to provide information on the number of collective agreements, the number of workers concerned, and generally all relevant information on the practical application of the said measures.

Voluntary bargaining in the public sector

The Committee notes that in its comments, the BWF refers to Act No X of 1974, section 3, which allows the Government to determine terms and conditions of service of workers, such determination precluding any agreements, settlements or awards in respect of the determined matters. The Committee recalls that it has repeatedly commented, in previous observations, on the incompatibility of this limitation on voluntary collective bargaining with the principles of the Convention.

The Committee has expressed its concern, for a number of years, in relation to the development of collective bargaining in the public sector and in particular the practice of determining wage rates and other conditions of employment by means of Government-appointed Wages Commissions. It notes that the Government in its report merely reiterates its views.

The Committee can only once more draw the Government's attention to Article 4 of the Convention, which requires that the Government take steps to encourage and promote the development and utilization of machinery for the voluntary negotiation of collective agreements.

Protection against interference

While sections 15 and 16 of the Ordinance of 1969 are designed to provide protection against acts of anti-union discrimination with respect to workers, the Committee again asks the Government to take appropriate measures with a view to amending its legislation so as to provide explicit protection to organizations against acts of interference. The Committee recalls that, to conform with Article 2 of the Convention, special measures should be taken, in particular through legislation, accompanied by appropriate remedies and sufficiently dissuasive sanctions on this point. It accordingly asks the Government again to re-examine the situation and to keep it informed of all developments.

Denial of right to engage in collective bargaining for workers in export processing zones

The Committee had observed that section 11A of the Bangladesh Export Processing Zones Authority Act 1980 appears to deny workers in such zones the right guaranteed by Articles 1, 2 and 4 of the Convention. In its report, the Government states that the said provision was intended to promote investment and generate employment opportunities and also to improve the balance of payment position with added foreign exchange earnings needed for the growth of the economy.

The Committee, as regards wage bargaining, has stressed that if, for imperative reasons of national economic interest, a government

considers that the wage rates cannot be fixed freely by means of collective negotiations, these restrictions should be applied as an exceptional measure and only to the extent necessary, should not exceed a reasonable period, and should be accompanied by adequate safeguards to protect effectively the standard of living of the workers concerned, in particular those who are likely to be the most affected (see 1994 General Survey on Freedom of Association and Collective Bargaining, paragraph 260). However, the denial to a category of workers such as mentioned above, of the protections and rights defined in the Convention is not compatible with the requirements of the Convention. The Committee therefore must again call upon the Government to amend the 1980 Act so as to bring it into conformity with the Convention.

[The Government is asked to supply full particulars to the Conference at its 81st Session].

Bolivia (ratification: 1973)

The Committee notes the Government's report and recalls that its previous comments referred to the exclusion from the scope of the General Labour Act of agricultural workers (section 1 of the General Labour Act) and, as a consequence, to:

- the absence of measures to protect workers against acts of anti-union discrimination (Article 1 of the Convention);
- the absence of measures to protect trade union organizations against acts of interference by employers (Article 2); and
- a lack of information on collective bargaining.

Although the Committee notes that, according to the Government, the preliminary draft of the General Labour Act has taken into account the Committee's comments, it can only regret the fact that, despite the time which has elapsed, the text has not been adopted.

The Committee once again hopes that the new General Labour Act will protect all workers, including permanent and temporary agricultural workers, against acts of anti-union discrimination, will protect their organizations against acts of interference by employers, and will be combined with effective and sufficiently dissuasive sanctions, and that the above Act will be approved in the near future. The Committee requests the Government to supply information in its next report on collective bargaining in the agricultural sector (collective agreements concluded and statistics) and on the progress made in the adoption of the preliminary draft text of the General Labour Act.

Brazil (ratification: 1952)

The Committee notes the Government's report and the discussions that took place at the Conference Committee in 1991.

Article 4 of the Convention. Measures to encourage and promote the full development and utilization of machinery for the voluntary negotiation of collective agreements.

(a) General regime

In its previous observation, the Committee asked the Government to inform it of measures taken in the context of its economic policy to extend the scope of collective bargaining and to associate the social partners with its wages policy. The Committee notes the explanations given by a Government representative at the Conference Committee. It also notes that the above Committee expressed the firm hope that the Government would be able in its next report to inform the Committee of Experts of the measures taken, particularly as a result of the submission to Congress of a Bill on collective bargaining, in order to bring its legislation and practice into conformity with requirements of the Convention.

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

According to the information supplied by a Government representative at the Conference Committee, Act No. 6708 - which allowed certain enterprises to be exempted from wage increases laid down in agreements - had been repealed and Act No. 8178 of 1 March 1991 established rules on prices and wages, but did not reproduce the former provisions that were repealed. It was therefore the only text in force concerning wages policy. The Committee gathers that, since then, new texts on wages policy have been adopted, such as Act No. 8542 of 23 December 1992, amended by Act No. 8700 of 27 August 1993. It also notes the Government representative's statement to the Conference Committee that the Bill No. 821 of April 1981, on collective bargaining had been submitted to Congress.

Although it is aware of the country's serious economic and financial difficulties, the Committee again reminds the Government of the need to repeal the general provisions which are inconsistent with Article 4 of the Convention, in particular section 623 of the Consolidation of Labour Laws, as amended by Act No. 5584 of 26 June 1970, and Legislative Decree No. 229 of February 1967 which confers extensive powers on the authorities to cancel collective agreements or arbitration awards that are not consistent with the rules set by the Government's wages policy. The Committee again urges the Government to ensure that wage-fixing measures are adopted in the context of a dialogue between the Government and the social partners, so that an agreement on wage-fixing policy may be reached between the sectors concerned.

The Committee also asks the Government to provide specific information on Bill No. 821 of 21 April 1991 and to provide a copy of it as soon as it becomes law.

More generally, the Committee asks the Government to provide copies of all texts adopted with each report, particularly those concerning wage policy, and wage-fixing and adjustment policy.

(b) Regime governing public enterprises, mixed economy enterprises and other entities directly or indirectly controlled by the State

In its previous observation, the Committee noted that enterprises in this sector are subject to the legal regime governing private

enterprises (section 173, paragraph 1, of the Constitution). In this connection, the Committee gathers that the employees of these enterprises are covered by the successive laws on wages policy, and refers therefore to the comments contained above.

The Committee notes the statement of the Government representative to the Conference Committee, to the effect that the Higher Labour Tribunal has revised its case law and quashed a decision providing that a collective agreement concluded without prior consultation with the competent official body was not binding on a mixed enterprise (resolution No. 02/90 of 19 December 1990). The Committee asks the Government to provide a copy of this resolution and to keep it informed of any developments in this area.

Cameroon (ratification: 1962)

The Committee notes that the Government's report has not been received.

However the Committee took note of the content of Law No. 92/007 of 14 August 1992 issuing the new Labour Code, and of the observation of the Cameroon Workers' Trade Union Confederation (CSTC) as well as of the conclusions of the Committee on Freedom of Association with regard to Case No. 1699 (see 291st Report, paragraph 516 to 551).

The Committee notes that the CSTC pointed out that under section 6(2) of the new Labour Code, any person forming a trade union or employers' association that has not yet been registered and who acts as if the said union or association has been registered shall be liable to prosecution.

The Committee, as well as the Committee on Freedom of Association, considers that section 6(2) of the new Labour Code is at variance with the established right of workers to adequate protection against all acts of discrimination likely to impair freedom of association in respect of their employment. It therefore asks the Government to take the necessary measures to repeal the provisions which are contrary to the Convention and to guarantee to all workers, and particularly persons who form trade unions and trade union leaders, adequate protection, accompanied by effective and sufficiently dissuasive sanctions, against acts calculated to prejudice them by reason of union membership or because of participation in union activities, in order to bring its legislation into conformity with Article 1(2) of the Convention. It asks the Government to indicate any measures taken in this respect in its next report.

Cape Verde (ratification: 1979)

With reference to its previous comments on the need for measures appropriate to national conditions to promote and encourage the full development and utilization of machinery for voluntary collective bargaining between employers' and workers' organizations so as to regulate conditions of employment, and in particular the need to enact a Decree to implement Legislative Decree No. 62/87 of 30 June 1987 respecting collective bargaining, the Committee notes the Government's

statement that the implementing Decree has still not been enacted but that a technical committee responsible for revising the legislation on industrial relations would publish a Bill in December 1993.

The Committee draws the Government's attention to the importance it attaches to promoting and utilizing machinery for the voluntary collective negotiation of conditions of employment, in accordance with the requirements of Article 4 of the Convention. In view of the Government's assurances to the Committee on Freedom of Association in Case No. 1717, that democracy is in the process of being established (see 291st Report, paragraph 371, approved by the Governing Body at its 258th Session November 1993), the Committee asks the Government in its next report to provide information on any measures that have been taken to guarantee the right of workers to negotiate freely their conditions of employment with their employers. It also asks the Government to provide copies of any national, regional or local collective agreements that may exist.

Chad (ratification: 1960)

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

The Committee recalls the need to amend section 119 of the Labour Code which empowers the administration to intervene in the collective bargaining process, and sections 121 and 122 of the Labour Code concerning prior authorization for the entry into force of collective agreements, in order to bring the legislation into conformity with Article 4 of the Convention.

The Committee trusts that the draft Labour Code prepared in 1988 with ILO assistance will be adopted in the near future since the above-mentioned provisions are not reproduced in it. It asks the Government to indicate any progress made in this respect in its next report.

In addition, the Committee is addressing a request directly to the Government about maintaining the provision of the Labour Code that gives effect to Articles 1 and 2 of the Convention.

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

Colombia (ratification: 1976)

The Committee notes the Government's report and recalls that its previous comments referred to:

- lack of protection against acts of anti-union discrimination for workers who belong to mixed organizations (of public employees "empleados públicos" and official workers "trabajadores oficiales"), (sections 57 and 58 of Act No. 50 of 1990);
- the ban on the negotiation of collective agreements by organizations of public employees (sections 414(4) and 416 of the Labour Code).

It must be stressed that in Colombia, public servants are either "public employees" or "official workers". The former are nominated and terminated unilaterally, their relations with the public administration are regulated by statute, they have no right to negotiate collectively their terms and conditions of employment, even though they are not public servants in the administration of the State in the sense of Article 6 of the Convention. The latter generally are employed in the commercial and industrial state enterprises, have contractual relations with the administration and can bargain collectively.

With regard to the issue of anti-union discrimination, the Government states that although public employees may join mixed organizations and hold trade union office, pursuant to section 409 of the Labour Code, they do not enjoy trade union immunity. Official workers belonging to mixed unions, on the other hand, do benefit from trade union immunity.

The Committee recalls that all public employees who are not engaged in the administration of the State should be covered by the protection against acts of anti-union discrimination. It asks the Government to take measures to ensure that its legislation is amended along the lines mentioned above.

With regard to the right of collective bargaining of public employees, the Government again states that Presidential Directive No. 38 of 26 December 1990 maintains the prohibition placed on public employees from concluding collective agreements (section 416 of the Labour Code).

In this connection, the Committee recalls once again that under section 414(4) of the Code, one of the functions of unions of public employees is to submit to the appropriate heads of the administration humble petitions containing requests concerning all its members, but not draft collective agreements. The Committee is bound to stress that when it ratified the Convention, the Government accepted that it had to take steps to encourage and develop voluntary negotiation between the social partners, which means that it must refrain from intervening in such a way as to restrict the exercise of this right. The Committee therefore asks the Government to take measures, in consultation with the social partners, to amend the legislation so that "public employees" with the possible exception of those engaged in the administration of the State enjoy the guarantees laid down in the Convention regarding the right of workers to negotiate collectively their terms and conditions of employment.

The Committee asks the Government in its next report to provide information on any changes in the legislation in this respect.

Costa Rica (ratification: 1960)

The Committee notes the Government's report and the report on the direct contacts mission that took place from 4 to 8 October 1993.

Articles 1 and 2 of the Convention. For several years, the Committee has been asking the Government to adopt provisions establishing means of redress and sufficiently effective and

dissuasive sanctions for acts of anti-union discrimination and interference.

In this connection, the Committee notes with satisfaction that Act No. 7360 of 4 November 1993 meets the Committee requests. The new Act:

- .. establishes as punishable offences "actions or omissions on the part of employers, workers or their respective organizations, which are in breach of the standards laid down in the Conventions adopted by the International Labour Organization, ratified by the Legislative Assembly (including the provisions of Convention No. 98 which prohibit anti-union discrimination and interference) as well as the standards set out in the present Code and the laws on social security". The new Act contains a table of penalties, which may be of up to 23 months of minimum wages;
- prohibits "actions or omissions aimed at avoiding, limiting, placing constraints on or preventing the free exercise of the collective rights of workers, their unions or coalitions of workers", and also establishes that "any act arising therefrom shall be null and void and shall be penalized under provisions of the Labour Code and its supplementary or appended acts concerning breaches of prohibitive provisions";
- guarantees job stability for the members of trade unions in the process of being formed (for up to four months), certain trade union officials (while they are in office and for up to six months afterwards) and candidates for the executive committee (for three months from the date on which they submit their candidature). It provides that, in the event of unwarranted dismissal of the workers thus protected, "the competent labour court shall declare such dismissal null and void and shall subsequently order the reinstatement of the worker and payment of all outstanding wages, in addition to penalties for which the employer is liable pursuant to this Code and its supplementary and appended acts".

The Committee also notes with interest that Act No. 7135 of 11 October 1989 provides for a right of appeal ("recurso de amparo") by individuals, whereby the effects of the impugned act under challenge may be provisionally suspended and the dismissed union officials reinstated, as was ruled by the Constitutional Chamber of the Supreme Court of Justice in October 1993. [See also under Convention No. 87.]

Articles 4 and 6 (Right to collective bargaining of public employees not engaged in the administration of the State). In its previous observation the Committee expressed the hope that the Bill on collective bargaining in the decentralized public sector would shortly be adopted.

In this connection the Committee notes the Government's statement in its report that, since the Labour Code does not apply to the public sector, the Central Labour Council (a tripartite body) drafted regulations to fill the legal void, and the Government Council adopted it by means of Directive No. 162 of 9 October 1992 which guarantees workers' right to collective bargaining. Section 18 specified that the Regulations were provisional pending the submission to the Legislative Assembly of a Bill on dispute settlement in the public sector. The Committee also notes from the Government's report that a

bipartite committee (government-unions) has been negotiating the above bill since May 1993 and the results achieved are satisfactory to both parties. Furthermore, an agreement signed on 8 November 1993 by the Government and certain union organizations contains a commitment to complete the text at the latest by the last day of February next year so that the Executive can present it to the Legislative Assembly. If the whole text cannot be submitted, at least the parts concerning collective bargaining and strikes in the public sector will be presented. The Government points out that the ILO's suggestions have been carefully followed in this matter.

The Committee hopes that the legislation on collective bargaining in the public sector will be adopted in the near future and that it will be in line with the provisions of the Convention, and asks the Government to keep it informed in this respect.

Denmark (ratification: 1955)

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

1. With reference to its previous comments relating to restrictions on free collective bargaining and fixing of wage rates, the Committee notes with interest that in 1991, collective agreements were renewed in the private and public sectors, where the parties agreed on average wage increases of 4 per cent and 2.7 per cent respectively. Similarly, collective agreements were renewed in 1993 which provided for average wage increases of 4 per cent and 2.5 per cent, respectively, in the private and public sectors.

2. The Committee recalls that under section 10 of Act No. 408 of 1988 which establishes the Danish International Ships' Register (DIS), collective agreements concluded by Danish trade unions apply only to persons considered as residents of Denmark. The Committee had considered that this provision was not in conformity with Article 4 of Convention No. 98 and Articles 2, 3 and 10 of Convention No. 87, since it prevented Danish trade unions from concluding collective agreements on behalf of other seafarers employed aboard Danish ships, and had requested the Government to hold further constructive discussions on this subject with the organizations involved and to provide statistical data on this issue.

The Government states that it has examined whether the most representative organizations of employers and workers wished to continue such discussions but that these organizations have indicated that, for the time being, there was no need to hold a meeting about this matter since they were awaiting the forthcoming general discussions on matters relating to international shipping registers at the next Maritime Conference in the ILO. The Government endorses the view that there is no basis for continuing discussions for the time being at the national level as the Danish deliberations in this field will depend upon the outcome of the discussions within the framework of the ILO.

While noting the above information, the Committee remains of the view that section 10 of Act No. 408 of 1988 does not aim at encouraging and promoting voluntary negotiation between employers' and

workers' organizations, nor at allowing workers who are employed aboard Danish ships but who are not residents of Denmark, to join the organizations of their own choosing to defend their interests, free from interference by the public authorities. The Committee is reinforced in this view by the statistical information provided by the Government according to which a total number of 606 merchant ships were registered under Danish colours on 30 June 1993, out of which 469 ships were registered in the Danish International Ships' Register (DIS). The DIS thus accounts for 77 per cent of the merchant fleet in terms of the number of ships. As regards the number and percentages of Danish and foreign seafarers concerned, Danish seafarers from Denmark and the Faroe Islands accounted for 72 per cent of the seafarers on board DIS-registered ships as at 31 March 1993. These figures imply that, in practice, section 10 of Act No. 408 of 1988 excludes a relatively large number of seafarers employed on Danish-flag ships but who are not residents of Denmark from the coverage of collective agreements concluded by Danish trade unions.

Nevertheless, in view of the fact that the next Maritime Conference in the ILO will deal with the issues relating to international shipping registers and that the Danish Government's approach to the problems in this field will depend upon the outcome of the ensuing discussions within the framework of the ILO, the Committee requests the Government to keep it informed of the outcome of such discussions and their bearing on the Danish deliberations in this field.

Dominican Republic (ratification: 1953)

The Committee notes the Government's report and the new Labour Code (29 May 1992) as it relates to freedom of association and collective bargaining.

The Committee recalls that its previous comments referred to:

- the insufficient protection provided to workers against acts of anti-union discrimination and acts of interference (sections 678(15) and 679(6) of the former Code);
- the exclusion from the scope of the Labour Code of workers in agricultural enterprises employing no more than ten workers (sections 281 and 307 of the former Code);
- the absence of collective agreements in export processing zones.

The Committee notes with satisfaction that the new Labour Code sets out trade union rights (section 390), increases the level of fines and sanctions as punishment to the authors of anti-union acts and discriminatory practices (sections 720 and 721), and that the provisions of the Labour Code respecting protection against anti-union discrimination and the promotion of collective bargaining for the determination of terms and conditions of employment through collective agreements (sections 103 and 281) are applicable to workers in agro-processing, stock-raising and forestry enterprises, as well as in export processing zones.

With regard to workers in export processing zones, the Committee notes the Government's statement that there are not yet any collective agreements between trade unions and employers, since trade unions are

only authorized to negotiate collective agreements when their membership includes an absolute majority of the workers in the enterprise or the workers employed in the branch in question (sections 109 and 110 of the Labour Code).

As regards legislation restricting recognition to an association which has a membership or the support of more than 50 per cent of the persons in a given bargaining unit (absolute majority), it follows that a trade union, even with a majority, that does not cover 50 per cent of the persons in a unit cannot obtain a certificate as a recognized bargaining agent; the Committee has recalled on various occasions that, if under a system of nominating an exclusive bargaining agent there is no union covering more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in this unit, at least on behalf of their own members (see 1994 General Survey on Freedom of Association and Collective Bargaining, paragraph 241). The Committee therefore considers that this requirement is too high and is liable to render collective bargaining difficult for trade union organizations covering all categories of workers, both at the level of the enterprise and the branch of activity.

The Committee requests the Government, in consultation with the social partners, to take steps to amend the law so that organizations of employers and workers are not impeded in their exercise of collective bargaining in accordance with Article 4 of the Convention and requests the Government to continue to supply information in its next report on any measure which has been taken or is envisaged to encourage and promote, in respect of employers in export processing zones and the organizations of workers, the full development and utilization of machinery for voluntary negotiation with a view to the determination of terms and conditions of employment.

Ecuador (ratification: 1959)

The Committee notes the Government's report and the conclusions of the Committee on Freedom of Association concerning Case No. 1617 (287th Report, paragraphs 60-66, approved by the Governing Body at its 256th Session, May 1993).

The Committee recalls that its previous comments concerned:

- lack of protection against acts of anti-union discrimination at the time of recruitment;
- the requirement that 50 per cent of all workers in the public sector who are covered by the Labour Code, or in the private sector working in the social or public spheres, have to establish a single central committee in order to submit a draft collective agreement (section 230, as amended, of the Labour Code);
- the ban on collective bargaining for public sector workers who are not covered by the Labour Code and are not engaged in the administration of the State.

The Committee notes that the Government's report does not reply to its comments on the lack of protection against acts of anti-union discrimination at the time of recruitment and on the ban on collective bargaining for public sector workers who are not covered by the Labour

Code and are not engaged in the administration of the State. It therefore urges the Government to reply to these points as soon as possible.

With regard to the requirement in amended section 230 of the Code, the Committee notes the Government's indication that this provision on collective bargaining in the public sector merely establishes that when there are several trade union organizations in an institution or enterprise and none of them represents 50 per cent of the workers, a non-permanent committee ("single central committee") must be set up with representatives from the various trade union organizations, and must represent at least 50 per cent of the workers.

The Committee again points out that the legislation should allow a trade union organization representing less than 50 per cent of the workers to negotiate collective agreements directly, at least on behalf of its members.

While noting the Government's statement that the draft reforms bring the national legislation into conformity with the Convention, it is bound to note with regret that they have still not been adopted despite the time that has elapsed.

The Committee once again urges the Government to take the necessary steps to ensure that the amendments to the national legislation ensure the protection of workers against acts of anti-union discrimination at the time of recruitment, allow a trade union organization representing less than 50 per cent of the workers to negotiate collective agreements directly, at least on behalf of its members; allow public sector workers who are not covered by the Labour Code and who are not engaged in the administration of the State to bargain collectively. The Committee asks the Government to inform it in its next report of progress in the adoption of the above-mentioned amendments to the legislation.

Egypt (ratification: 1954)

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

With reference to its previous comments on the need to amend section 87 of the Labour Code, as amended by Act No. 137 of 1981, which provides that any clause in a collective labour agreement that jeopardizes the economic interests of the country shall be null and void, the Committee notes with regret that, despite the Government's assurances in a report received by the Office in February 1992 that the national legislation would be revised and that meetings had been organized for that purpose with senior officials of the ILO in order to bring the legislation into conformity with the requirements of the Convention, the Government indicates in its most recent report that section 87 of the Labour Code merely applies the general rules of law concerning the removal of clauses which are contrary to the public order which is constituted by the economic, social and cultural foundations of society.

In these circumstances, the Committee again recalls that requirements imposed under penalty of nullification are likely, by restricting the scope of collective bargaining, to undermine the

principle of voluntary negotiations laid down in Article 4 of the Convention. It stresses that in the event of economic difficulties the Government should prefer persuasion to constraint and that in any event the parties must remain free as to their final decisions.

Recalling that the reference to the economic interests of the country as grounds for the cancellation of a clause of a collective agreement has been removed from section 157(3) of the draft Labour Code, the Committee asks the Government to indicate in its next report the measures taken to amend section 87 of the Labour Code to bring it into line with the draft new Code so that the legislation on this point is fully in conformity with the requirements of the Convention.

[The Government is asked to report in detail for the period the ending 30 June 1994.]

Ethiopia (ratification: 1963)

The Committee notes the Government's report. With reference to its previous comments, it notes with satisfaction that Labour Proclamation No. 42 of 1993, which repeals previous labour legislation, removes the compulsory registration of collective agreements.

However, the Committee is addressing a direct request to the Government concerning certain aspects of this Proclamation with regard to the application of the Convention.

Fiji (ratification: 1974)

The Committee takes note of the Government's report and of the conclusions reached by the Committee on Freedom of Association in the context of Case No. 1622 (284th Report of the Committee, paras. 686-705, approved by the Governing Body in November 1992).

1. Article 2 of the Convention. In its previous comments, the Committee had stressed the need to adopt specific measures, particularly through legislation, to guarantee adequate protection (accompanied by sufficiently effective and dissuasive sanctions) to workers' organizations against any act of interference by employers or their organizations. The Committee notes the Government's statement that no amendments have been made so far, but that the change needed would be kept in mind when the law is amended next.

The Committee hopes that the Government will take the necessary measures at the earliest possible opportunity, and it asks the Government to keep it informed of any developments in that matter.

2. Article 4. Further to its previous comments on the restrictions on collective bargaining imposed by the Counter-Inflation (Remuneration) (Cap. 73, revised in 1985) Act, the Committee notes with interest the Government's statement that economic recovery (which was aimed at by the restrictive legislative measures) has since been realized and that the restriction was lifted on 31 July 1991, thus allowing full collective bargaining to function freely. The Committee also notes that various restrictive orders have been revoked. The

Committee notes for example that the Counter-Inflation (Remuneration) (Control) Order, 1990, has been revoked.

However, the Counter-Inflation (Remuneration) Act itself does not seem to have been repealed or amended. Section 10 of the Act allows for the restriction or regulation, by order, of remuneration of any kind, and stipulates that any agreement or arrangement which would not respect these limitations would be illegal and deemed to be an offence.

The Committee considers that the powers vested under the Act in the Prices and Incomes Board, as recalled above, do not meet the criteria for acceptable limitations on voluntary collective bargaining. As it has already stressed, the Committee holds that restrictions imposed on free collective negotiations, for imperative reasons of national interest, should be applied as an exceptional measure, only to the extent necessary, they should not exceed a reasonable period and accompanied by adequate safeguards to protect effectively the standard of living of the workers concerned, in particular those who are likely to be the most affected (see 1994 General Survey on Freedom of Association and Collective Bargaining, paragraph 260).

The Committee therefore asks the Government to take the necessary measures to ensure that the Board, if it should take any order in future under section 10 of the Act, will observe the above-mentioned principles. It asks the Government to keep it informed of any application of section 10 of the Act.

3. Articles 3 and 4. In relation to the previous comments of the Fiji Trade Union Congress (FTUC) on the situation of the workers in the free trade zones, and especially the garment workers where the Garment Manufacturers' Association apparently unilaterally set the employment conditions of the workers without discussion with the Garment Workers' Association, the Committee notes the Government's information according to which the Garment Industry Wages Council (as is the case in seven other Industry Wages Councils), is made up of three persons, with one representative for employers and one for workers. All decisions on the conditions of employment are discussed and the conclusions reached by consensus. The discussions of the Council have resulted in the Wages Regulations (Garment Industry) Order, 1991.

With regard to the FTUC's comments that the Tripartite Forum had not been reactivated for some time, the Committee notes the Government's explanation that it formed the National Economic Strategy Committee as a substitute to deal with all labour matters which were handled by the Tripartite Forum before.

With regard to the FTUC's comments indicating that bargaining was hampered by employer refusal to recognize independent unions and giving the example of the Vatukoula Joint Mining Company refusing to recognize a registered Fiji Mineworkers' Union, the Government states that a Compulsory Recognition Order was issued by the Permanent Secretary for Labour and Industrial Relations on behalf of that union on 11 September 1992, and that it was challenged by the company in the High Court, which invalidated the Order by judgement of 2 April 1993.

Noting that the Committee on Freedom of Association had observed in Case No. 1622, paragraph 695, that the Trade Union (Recognition) Act is silent as to the position of a majority union which does not

cover 50 per cent of the employees in a bargaining unit, the Committee recalls that if under a system of nominating an exclusive bargaining agent there is no union covering more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in this unit, at least on behalf of their own members (see 1994 General Survey, op. cit., paragraph 241).

The Committee considers that the application of restrictive conditions such as stipulated in the Act is not conducive to voluntary negotiation between employers or employers' organizations and workers' organizations with a view to the regulation of terms and conditions of employment by means of collective agreements. It would ask the Government to provide information in its next report on any measures taken or contemplated to promote collective bargaining in the case of the Fiji Mineworkers' Union and the Vatoukula Joint Mining Company and to send copies of any collective agreements reached.

Gabon (ratification: 1961)

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

With reference to its previous comment concerning the need to adopt legislative provisions in order to give full effect to Articles 1 and 2 of the Convention, the Committee notes from the information supplied by the Government that the work of revising Act 5/78 to issue the Labour Code are well under way.

The Committee points out that, even if, as it emphasised in its previous observation, the provisions of the Common Agreement cover the gaps identified in the law with regard to Article 1 of the Convention (and, according to the previous comments made by the Employers' Confederation of Gabon, all the agreements signed since 1982 have included these provisions), legislative provisions accompanied by sufficiently effective and dissuasive sanctions need to be adopted in order to give workers adequate protection against acts of anti-union discrimination and workers' organizations protection against acts of interference by employers.

The Committee trusts that the work of revising the Labour Code will be completed in the near future and requests the Government to supply information on the measures that have been taken in order to bring the legislation into greater conformity with Articles 1 and 2 of the Convention.

Ghana (ratification: 1959)

The Committee takes note of two communications of the Ghana Trade Union Congress (TUC) relating to the application of the Convention with regard to certain restrictions on bargaining of wages and salaries in publicly financed organizations and on redundancy in the cocoa industry.

In view of the fact that the Government has not yet replied to the comments of the TUC, the Committee will deal with these questions at its next meeting once it has examined the Government's observations.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Greece (ratification: 1962)

The Committee notes the Government's report and its observations relating to the comments made by the General Confederation of Greek Workers (GSEE).

1. With reference to its previous observation, the Committee notes the information supplied in the Government's report to the effect that Act No. 2025 of 1992, which imposed restrictions on collective bargaining by workers in the public sector in the broad sense of the term, in public utility enterprises, local administrative organizations and state banks, ceased to be in force on 31 December 1992.

2. The Committee notes, however, that the GSEE states that in 1993 the Government again took steps by legislative means to: (i) suspend the implementation of the national general collective agreement in the public sector for workers employed under private employment contracts, workers in associations in the private sector and the staff of local administrations; (ii) impose a wage rise of 4 per cent for employees in branches of activity which are similar to the above; and (iii) confirm and extend the powers of the Minister of the National Economy to set maximum levels for wage increases for employees in the public sector in the broad sense of the term, and to extend these powers to 1994 just as it had done in the 1992 Act.

The Government admits that under section 3 of Act No. 2129, of 14 April 1993, the wages of workers employed by the State, by public utility enterprises and by local administrations under a private employment contract were increased by 4 per cent as of 1 January 1993 and states that this increase can be granted through collective bargaining. It also states that collective labour agreements which have already been concluded provide for an increase of 9 per cent, that bank employees have concluded a collective agreement providing for an initial increase of 3 per cent and a further increase of 12 per cent and that the national general collective agreement for the private sector was concluded on 6 June 1993 and provides for a wage increase of 5.4 per cent, followed by an increase of 8 per cent.

The Committee regrets that the Government has once again intervened in the free collective bargaining of terms and conditions of employment by employees in the public sector in the broad sense of the term, by setting maximum wage levels by legislative means for 1993 and 1994. The Committee recalls that it has already pointed out that the intervention of the Government in the field of collective bargaining, which has occurred over several years, prejudices the rights of workers and employers to negotiate their terms and conditions of employment freely. The Committee emphasizes that in the event of economic difficulties, the Government should give preference

to persuasion to constraint and that in any case the final decision should rest with the parties to the agreement.

The Committee therefore requests the Government to re-examine its position in the light of the above comments and to keep the Committee informed of any development in the situation.

Guatemala (ratification: 1952)

With reference to its previous comments in which it asked the Government to indicate the measures that had been taken to increase the fine of between one hundred (100) and one thousand (1,000) quetzales (section 272(a) of the Labour Code), imposed on employers who oblige or try to oblige workers to relinquish membership of their union or to join a union (section 62(c)) to ensure that this penalty remained sufficiently dissuasive, the Committee notes with satisfaction that Decree No. 64-92 of 2 December 1992 provides in section 24(a), for an increase in the above fine which is now of between one thousand five hundred (1,500) and five thousand (5,000) quetzales.

Haiti (ratification: 1957)

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

The Committee takes note of the information supplied at the Conference Committee in 1989 and of the Government's report.

In its previous observation, the Committee asked the Government to report on the progress of (1) the revision of section 34 of the Decree of 4 November 1983, which confers on the Service of Social Organizations the power to intervene in the preparation of collective agreements, and (2) the adoption of specific provisions prescribing protective measures against anti-union discrimination at the time of recruitment and reinstatement of workers dismissed on grounds of legitimate trade union activities.

The Committee notes that, in its reports, the Government indicates that the committee in charge of reforming the Labour Code is engaged in a comprehensive examination of the Decrees being drafted to amend section 34 of the Decree of 4 November 1983 and the Decrees concerning protective measures against anti-union discrimination.

The Committee would ask the Government to provide information in its next report on the measures taken by the above committee to bring the legislation into full conformity with the Convention.

Iceland (ratification: 1952)

The Committee notes the Government's reports and its replies to the comments made by the Alliance of Graduate Civil Servants (BHMR). It also notes the last comments of the BHMR.

The Committee recalls that the BHMR had indicated that Provisory Act No. 89/1990 respecting remuneration annulled many provisions of the prior collective agreement. The BHMR also considered that the Government had once again impeded collective bargaining by creating preconditions, and that the four disputes between it and the Minister of Finance which have been referred to the Labour Court in recent years indicate a lack of good faith on the part of the Government.

In its comments of 22 December 1993, the BHMR explains that Provisory Act No. 89/1990, which subsequently entered the statute book as Act No. 4/1991, deprived BHMR union members of all the wage increases and improvements in conditions of employment set out in the agreement that the BHMR negotiated and concluded in 1989, since article 5 (providing, amongst other things, that the wages of BHMR members should be increased to a level comparable to that of university graduates employed in the private sector) and article 15 (providing for general wage increases equivalent to those obtained by other groups of employees for the duration of the agreement) of this agreement have been totally annulled by the Government unilaterally and arbitrarily. According to the BHMR, all that it obtained from the Government was a wage increase for its members, in March 1993, and only after demanding it from the employers concerned and after a dispute with the Minister of Finance, whereas the Government had already granted the increase in 1992 to other trade union organizations. It adds that, when the wage increase was negotiated in February 1993, the Government undertook to correct the wage structure but that, so far, it has not fulfilled that undertaking; in February 1993 it also confirmed that the provisions of the 1989 agreement would remain in force, except for articles 5 and 15.

In response, the Government explains that it was only after its dispute with the BHMR that an agreement was concluded, on 26 February 1993, between the Minister of Finance and all the unions affiliated to the BHMR. The agreement in question did not delete the provisions in force at the time, concerning wages and other conditions of employment; it merely provides for their extension without amendment. The Government adds that, in its opinion, the fact that most of the Labour Court's decisions concerned court actions connected with the BHMR cannot be regarded as proof of bad faith on the Ministry's part; on the contrary, it treats all its negotiating partners in the same way.

The Committee also notes the Government's indication in its report that Act No. 15 of 1993 ended a dispute about the negotiation of conditions of employment of the members of the crew of the *Herjolfur*. This Act also provided that an arbitration court would settle the dispute. According to the Government, the arbitration award was given on 9 August 1993.

While noting all this information, the Committee is bound to recall that it has already pointed out that government intervention in agreements that have been freely concluded by the social partners

impairs the rights of workers and employers to freely negotiate terms and conditions of employment. The Committee stresses that, in the event of economic difficulties, the Government should prefer persuasion to constraint and that, in any event, the parties should remain free as to their final decisions. It therefore asks the Government to provide information in its next report on any progress made in encouraging and promoting the full development and utilization of machinery for voluntary negotiation between employers' and workers' organizations with a view to the regulation of terms and conditions of employment by means of machinery without interference from the Government in such a manner as to ensure the confidence of the parties involved.

Indonesia (ratification: 1957)

The Committee takes note of the written and oral information supplied by the Government to the Conference Committee in June 1993 and the discussion which took place there.

The Committee recalls that its comments have for a number of years concerned the following points:

- the absence of specific legislative provisions accompanied by sufficiently effective and dissuasive sanctions to protect workers against acts of anti-union discrimination at the time of recruitment or during the employment relationship (Article 1 of the Convention);
- the absence of sufficiently detailed legislative provisions to protect workers' organizations against acts of interference by employers or their organizations (Article 2);
- the restriction on free collective bargaining whereby only federations covering at least 20 provinces and grouping a large number of trade unions may conclude collective agreements (Article 4).

The Committee notes that a direct contacts mission took place in Indonesia (21-27 November 1993), upon request from the Government "in order to advise on better implementation of the Convention". The main recommendations of the mission are summarized below:

1. The labour legislation should be consolidated and simplified, with substantive rights embodied in a labour or industrial relations Act, leaving details of implementation and procedure to regulations, adopted by virtue of a power established in the relevant legislation.

2. Legislative measures should be taken to repeal the provisions, and in particular article 2 of Regulation PER-03/MEN/1993, which prevent workers from engaging voluntarily in collective bargaining and concluding collective labour agreements through freely chosen representatives.

3. Steps should be taken, in law and in fact, to guarantee workers effective protection against acts of anti-union discrimination, and acts of interference by employers, in particular by:

- consolidating and simplifying the existing provisions on the subject;

- adopting provisions to remedy evidentiary difficulties;
- strengthening the penalties provided for violations of anti-union discrimination and interference provisions;
- streamlining and strengthening the enforcement provisions; and
- taking measures to avoid, to the maximum extent, the involvement of police and armed forces in labour disputes and, more generally, in labour matters.

The mission also pointed out that the Office is ready and willing to provide technical assistance in all the matters mentioned above.

Noting from the report that the Government demonstrated throughout the mission a spirit of cooperation and collaboration with the ILO, the Committee strongly hopes that the Government will soon give positive consideration to these recommendations, which parallel to a large extent the observations and recommendations it has been making for several years. It reiterates the offer of technical assistance mentioned above.

The Committee also addresses a direct request to the Government on another issue.

[The Government is asked to supply full particulars to the Conference at its 81st Session and to report in detail for the period ending 30 June 1994.]

Iraq (ratification: 1962)

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

It recalls that for several years it has been asking the Government to take specific measures to ensure that the Convention is applied, in view of:

- the lack of appropriate provisions to ensure the protection of workers against all acts of anti-union discrimination by employers at the time of taking up employment and during employment (Article 1 of the Convention);
- the lack of legislative provisions concerning the promotion of collective bargaining between employers or employers' organizations and workers' organizations with a view to the regulation of terms and conditions of employment (Article 4);
- the lack of provisions to guarantee that persons employed by the State, public enterprises and independent public institutions, who are not engaged in the administration of the State (such as teachers) and workers in the socialized sector have the right to be protected against all acts of anti-union discrimination and the right to negotiate their conditions of employment collectively (Articles 1, 4 and 6).

Articles 1 and 4. The Government indicates that appropriate measures have been taken to amend the Labour Code (No. 71 of 1987) in order to bring it into line with the provisions of Article 1 of the Convention and that a new chapter entitled "Collective labour contracts" has been introduced into the Code. The Government adds that it will provide copies of the amendments as soon as the legislative procedures have been completed.

The Committee recalls that Act No. 71 of 1987 to issue the Labour Code and Act No. 52 of 1987 respecting trade union organizations contain no provisions to ensure the application of the Convention. The Committee is therefore bound once again to urge the Government to take specific measures at the earliest possible date to guarantee the protection of workers against all act of anti-union discrimination, enforceable by sufficiently effective and dissuasive sanctions, and to encourage and promote the full development and utilization of machinery for voluntary negotiation of collective agreements in the private, mixed and cooperative sectors. It asks the Government to supply copies of the new provisions to which it refers so that the Committee may ascertain whether they are consistent with the requirements of the Convention.

Articles 1, 4 and 6. The Government indicates that persons employed by the State or by public enterprises and independent public institutions, other than those engaged in the administration of the State (such as teachers) and workers in the socialized sector have the right to be protected against all acts of anti-union discrimination and to negotiate their terms and conditions of employment collectively, in accordance with the laws and regulations which apply in enterprises and establishments where such workers are employed.

The Committee recalls that Act No. 150 of 1987 respecting public servants does not contain specific provisions guaranteeing that public employees enjoy protection against anti-union discrimination and granting them the right to negotiate their terms and conditions of employment collectively. It therefore asks the Government to provide with its next report copies of all the laws and regulations to which it refers, together with information on how negotiations are conducted in practice in the above-mentioned establishments (number of agreements concluded, number of workers covered, etc., if any).

Jamaica (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which dealt with the following points:

- the broad powers of the Minister to cause a ballot to be taken to choose the bargaining agent (section 5 (1) of the Labour Relations and Industrial Disputes Act, 1975 (No. 14) and sections 3 (1) and 3 (2) of the regulations issued thereunder), without the right of appeal;
- the denial of the right to negotiate collectively in the case of the workers in a bargaining unit when these workers do not amount to more than 40 per cent of the unit or when, if the former condition is satisfied, a single union that is engaged in the procedure of obtaining recognition does not obtain 50 per cent of the votes of the workers in a ballot that the Minister has caused to be taken (section 5 (5) of Act No. 14 of 1975, and section 3 (1)(d) of the regulations issued thereunder).

For several years, the Committee has been requesting the Government to take measures to amend the provisions concerning

the procedure for designating a union as bargaining agent so as to eliminate the discretionary powers of the Minister and to enable the workers of a bargaining unit to bargain collectively, even where the conditions relating to the numbers in a trade union and the votes cast in a ballot are not satisfied.

In its previous report, the Government indicated that in its view the criteria for determining bargaining rights were objective since the Regulations of the Labour Relations and Industrial Disputes Act were fairly rigid and explicit.

The Government added that if minority representation were allowed to occur, it was very likely that chaos would result given the multiplicity of trade unions that now existed in the country. It asked moreover what would be the minimum percentage of membership required for a trade union to have bargaining rights. The Government stated that in any event, the system of recognition had worked reasonably well since its inception.

While noting these statements, the Committee is bound to point out that where conditions concerning the number of members of a trade union or the balloting of workers in a bargaining unit, in the event of a vote, are such that the workers of the unit concerned may be deprived of the right to collective bargaining, when there exist one or more legally constituted unions, the legislation should recognize the right of this or these unions to bargain at least on behalf of their own members. Moreover, the Committee recalls that, if under a system of nominating an exclusive bargaining agent, no union can be designated as representing the required percentage, collective bargaining rights should be granted to the most representative union in the unit.

The Committee hopes that the amendment to the labour legislation will be along the lines of its comments and, once again, urges the Government to indicate the measures that have been taken or are envisaged to guarantee the objectivity of the recognition procedure and to ensure that the union representing the largest number of workers, even if these do not amount to 40 per cent of the workers in the bargaining unit or the majority of votes in a ballot, is granted collective bargaining rights concerning terms and conditions of employment, at least on behalf of its own members.

The Committee hopes that the Government will take the necessary measures in the very near future.

Japan (ratification: 1953)

The Committee notes the information supplied by the Government in its reports as well as the comments by the Japanese Trade Union Confederation (JTUC-RENGO) in a communication dated 8 December 1993.

The Committee notes that the comments presented by RENGO refer to the situation of public employees (in the employment of the State, local bodies or state enterprises). These matters have been brought to the attention of the Committee on previous occasions. In its detailed report, the Government stresses that the comments

communicated by RENG0 do not mean that specific new problems have occurred. The Committee notes that the Government maintains its specific stance and cites, with reference to the points raised by RENG0, relevant comments already forwarded to the ILO in the past.

The comments submitted by RENG0 essentially relate to the following matters, all of which have been subject to comments by the Committee on previous occasions:

1. Anti-union discrimination

Right to organize for various public servants
(police, Maritime Safety Agency, prison,
firefighters and others)

The Government observes that this question is dealt with by Convention No. 87. It recalls that the Maritime Safety Agency is in charge of police on the sea, that the functions of the employees of penal institutions are assimilated to those of the police. As for the firefighting personnel (whose situation the Committee examined under Convention No. 87), the Government states that it intends to continue its efforts to find a solution.

The Committee refers to its previous observations under Convention No. 87.

Registration of public employees' organizations
and other limitations

The Government recalls that the system of registration does not intend to discriminate against employee organizations in their negotiating capacity. The system of registration purports to authenticate employee organizations with a view to establishing rational labour-management relations between the authorities concerned and independent and democratic organizations. The Government's understanding is that where a non-registered employees' organization requests management to negotiate with it, management should endeavour not to reject the request arbitrarily. The Committee had previously noted from the Government's indication that there had been no case in practice where an authority had arbitrarily refused to negotiate with an organization for the sole reason that it was not registered.

As for the limitations of terms of office for full-time trade union officers while retaining their status of public employees, the Committee notes the information of the Government in its report of changes introduced in the past. The Committee considers that this question does not fall under Article 1 of the Convention.

Prohibition of strikes for state employees

The Committee, while noting the comments by RENG0 and the indications in the Government's report, refers to its previous observations under Convention No. 87.

2. Promotion of collective bargaining

Negotiation rights of public employees

According to RENGO, the State Employees Law and the Local Public Employees Law stipulate that negotiation between the authority and trade unions does not include the right to conclude collective agreements. The Local Public Employees Law allows for written agreements, provided they do not violate municipal laws, regulations and rules. RENGO and the Liaison Committee of Public Employees Unions (KOU MUIN-RENNRAKU-KAI) continue to demand the participation of trade unions in the decision-making concerning wages and working conditions. Although meetings often take place between the Government and trade unions on the application of recommendations made by the Personnel Agency, they have never affected government decisions.

For RENGO, the view of trade unions is not sufficiently reflected in the elaboration of the recommendations by the Personnel Agency. It considers that there should be legal provisions for previous consultations on important policy decisions.

The recommendations of the Personnel Agency, according to RENGO, were fully applied in recent years, but the Government does not take its decision on the recommendations until several months later, so that the application is delayed by up to nine months in comparison with the wage increase in the private sector.

The Committee notes the Government's repeated statement that the National Personnel Authority and the Personnel Commission, whose mission is to make recommendations as necessary to adapt the working conditions of society, make incessant efforts to determine the trends of working conditions in the private sector and to obtain freely expressed opinions from employees' organizations and make recommendations taking those factors into account. Meetings between the Government and employees' organizations are frequently held concerning wages and other working conditions, and the National Personnel Authority frequently hears the opinion of employees' organizations before it makes recommendations concerning wages and other matters.

With regard to public servants, the Committee wishes to point out that Article 6 establishes that the Convention does not deal with the position of public servants engaged in the administration of the State; the persons who are employed by the State or in the public sector but who do not act as agents of the public authority, however, come under the scope of the Convention.

Noting the information supplied by the Government, the Committee recalls that it had previously observed that the capacity of public employees (i.e. those who are not engaged in the administration of the State) to participate in the process of the determination of their wages is substantially limited. It would therefore ask the Government to indicate what measures could be envisaged to encourage and promote the full development and utilization of machinery for voluntary negotiation.

Exclusion of certain matters from negotiation
in state enterprises

According to RENGO, the State Enterprise Labour Relations Law excludes matters of administration and management from negotiation. The meaning of these matters is not clearly defined, and negotiation is actually limited or refused because of arbitrary interpretation. Under the same law, additional wage payment should be accepted by the parliament.

In its report, the Government states again its basic view that under the Public Corporation and National Enterprise Labour Relations Law, all matters relating to working conditions may be subject to collective bargaining. The Government refers to the recommendation of the Advisory Council on the Public Service Personnel System to the effect that conditions of work which are affected by decisions relating to management and operations should be matters for labour-management negotiations. Management actually holds prior consultations with labour in the public corporations and national enterprises even on matters pertaining to management and operations. Diet approval for additional expenditure of funds of national enterprises is not designed to prohibit the parties concerned from conducting collective agreements but to leave the validity of budgetary appropriation for wages to the approval of the Diet.

The Committee would ask the Government to give in its next report precise information as to matters pertaining to management and operations, within the meaning of the Public Corporations and National Enterprises Labour Relations Law, which are clearly excluded from negotiation or consultation.

Jordan (ratification: 1968)

The Committee takes note of the Government's report.

1. The Committee recalls that its previous comments addressed the need to adopt specific provisions enforceable by sufficiently dissuasive sanctions to ensure the application of Article 2 of the Convention. It notes from the Government's report that the draft of the new Labour Code which is to be submitted to the National Council for adoption after the parliamentary elections of November 1993, includes penal sanctions to enforce protection of workers against all acts of interference by employers or their organizations. The Government indicates in particular that section 109 of the draft provides that the administrative body may authorize several of its members at the unions' headquarters or branches to engage in trade union activities and that the procedures and conditions for such authorization shall be set by consultation between the Ministry, the employers and the union confederation.

While noting this information, the Committee draws the Government's attention to Article 2 of the Convention which provides, first in general terms, that "workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration", and goes on to define certain specific

acts of interference which "are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations".

In the Committee's view, the provisions of section 109 of the draft new Labour Code are insufficient to guarantee the protection laid down in Article 2, in that they provide for the protection only of union representatives who engage in trade union activities. It therefore urges the Government once again to take the necessary steps to bring its legislation into conformity with the Convention.

2. With reference to its previous comments on the lack of provisions to ensure that the Convention is applied to domestic servants and agricultural workers who are not employed in government organizations, mechanical equipment establishments or irrigation work, the Committee notes that the Government states once again in its report that the coverage of such workers is broader in the new Code than in the present Code, since section 2 of the draft includes casual, temporary and seasonal work. It regrets the Government's statement that domestic workers have been excluded from the new Code because such employment is not as a rule stable or permanent, but notes that the Ministry is examining the possibility of issuing special conditions of employment for such workers.

The Committee must stress once again the need to grant all agricultural and domestic workers, without exception, protection against acts of anti-union discrimination as well as the right to negotiate their conditions of employment collectively. It asks the Government to take the necessary steps in the very near future to give effect to the Convention and to indicate them in its next report.

3. The Committee asks the Government to provide a copy of the new Labour Code and the texts of any other laws giving effect to the Convention as soon as they have been adopted.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Liberia (ratification: 1962)

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

The Committee notes that no measures have been taken to eliminate the discrepancies between the national legislation and the Convention.

In the circumstances, the Committee can only recall its comments of the last few years which concern the following points:

1. Article 1 of the Convention. The provisions of the national legislation are insufficient to guarantee workers adequate protection, accompanied by sufficiently effective and dissuasive sanctions, at the time of recruitment and during the employment relationship.

2. Article 2. The present provisions are not sufficient to ensure adequate protection of workers' organizations, accompanied by sufficiently effective and dissuasive sanctions, against acts of interference by employers and their organizations.

3. Articles 4 and 6. The possibility of collective bargaining is not offered to employees of state enterprises and other authorities, since these categories are excluded from the scope of the Labour Code, whereas under Article 6 of the Convention, only public servants engaged in the administration of the State are not covered by the Convention.

As the Committee has been repeating these comments for years, it again asks the Government to do everything in its power to take the necessary measures to ensure that full effect is given to the Convention in the very near future.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which dealt with the following points:

For many years, the Committee has been pointing out that certain provisions of the national legislation do not sufficiently implement or are not in conformity with the Convention, namely:

- section 34 of Act No. 107 of 1975 concerning trade unions, which provides protection against acts of discrimination for trade union activities during the employment relationship, but not at the time of the recruitment of a worker (Article 1 of the Convention);
- sections 63, 64, 65 and 67 of the Labour Code, which require the clauses of collective agreements to be in conformity with the economic interest (Article 4), whereas, in the Committee's opinion, rather than subjecting the validity of collective agreements to government approval, steps should be taken to persuade the parties to collective bargaining to have regard voluntarily to major economic and social policy considerations of general interest invoked by the Government;
- the absence of provisions ensuring adequate protection against acts of anti-union discrimination and granting the right of collective bargaining to public servants not engaged in the administration of the State, to agricultural workers and to seafarers.

The Committee noted that the National Commission that had been given the task of examining international labour Conventions had recommended that sections 4(d) and 34 of the Act of 1975, and sections 63, 64, 65 and 67 of the Labour Code be repealed or amended.

The Committee emphasizes the necessity of adopting measures to guarantee protection against acts of anti-union discrimination and to secure the right to bargain collectively for public servants not engaged in the administration of the State, agricultural workers and seafarers.

It hopes that the Government will make every effort to take the necessary measures in the very near future and that it will supply information in its next report on any progress that has been achieved on these various points.

Malaysia (ratification: 1961)

1. Further to its previous comments, the Committee notes with interest the Government's indication in its report that it is actively considering repealing section 15 of the Industrial Relations Act, which limits the scope of collective agreements for so-called "pioneer enterprises" and others, and that a Cabinet paper was being prepared for the Government's consideration.

The Committee asks the Government to keep it informed on any further progress and to send a copy of the repealing legislation as soon as it is adopted.

2. The Committee notes the information supplied by the Government, in answer to its previous comments, on the scope of section 13(3) of the Industrial Relations Act. The Government again states that the matters excluded by that provision from collective bargaining (i.e. promotion, transfer, employment, termination, dismissal and reinstatement) have been subject to negotiation, conciliation and arbitration, as well as judicial decisions and that they amounted to 54.2 per cent of all disputes dealt with by the Department of Industrial Relations during the past five years. The Government also stresses that these matters, considered as internal management prerogatives, are subject to legal limitations.

The Committee understands, from the information available, that the matters referred to above are indeed commonly bargained and it therefore would ask the Government to take the necessary steps to lift the above-mentioned limitations in order to bring its legislation into line with the Convention and with wide national practice.

3. The Committee further notes, in relation to its comments on certain restrictions on the right to bargain collectively for employees in the public administration other than those engaged in the administration of the State (section 52 of the Industrial Relations Act) that the National Joint Councils, as set up in 1992, provide equal representation to workers' organizations and government officials, and that they meet at least twice a year. Meetings have been convened to discuss implementation problems of the "New Remuneration System". At the levels of ministries and departments, workers' organizations are represented in the Department Joint Councils, which are expected to meet five times annually to discuss and solve problems on public sector wages and employment.

While noting this information the Committee again asks the Government to encourage and promote the full development and utilization of machinery for voluntary negotiation between public employers and public servants other than those engaged in the administration of the State - such as teachers - with a view to the regulation of the terms and conditions of employment of the said workers.

Mauritius (ratification: 1969)

Further to its previous comments concerning the need to include in the labour legislation an express provision protecting workers' organizations against acts of interference, in accordance with Article 2 of the Convention, the Committee notes with interest the indication in the Government's report that the Special Law Review Committee on the review of the Industrial Relations Act has now submitted its report, which is under consideration by the Government.

The Committee recalls that specific legislative provisions accompanied by sufficiently effective and dissuasive sanctions should be adopted to ensure protection against acts of interference (1994 General Survey on Freedom of Association and Collective Bargaining, paragraph 232) and asks the Government to keep it informed of any progress in that matter, and to communicate a copy of any legislation adopted.

Morocco (ratification: 1957)

The Committee notes the information supplied by the Government in its reports and the conclusions of the Committee on Freedom of Association in Case No. 1589 (283rd and 287th Reports).

Further to its previous observation, the Committee recalls that the Democratic Confederation of Labour (CDT) and the General Workers' Union of Morocco (UGTM) submitted comments in 1991 concerning Articles 1 and 2 of the Convention in which they criticized the absence of any legislation guaranteeing adequate protection against acts of anti-union discrimination at work and the fact that workers' organizations do not enjoy, either in law or in practice, any protection against acts that impair their freedom to establish organizations and their independence.

The Committee notes that the Government states in its report that the Decision of 23 October 1948 issues model conditions of service determining the employment relationship between workers and employers and provides that the employer must only take into consideration the skills and capacities of workers with a view to their recruitment. Fines are envisaged for violations of this provision.

The Government also states that the draft Labour Code includes a provision prohibiting any discrimination between workers on the grounds of their membership of a trade union or their trade union activities and provides that employers who violate these provisions are liable to penal sanctions or fines.

The Committee notes that the draft Labour Code has been under examination for several years, that it is still being debated and has not yet been adopted. It recalls that the Committee on Freedom of Association, when examining Case No. 1589, pointed out in its conclusions in 1993 that it is necessary for the legislation expressly to establish procedures for appeal against acts of anti-union discrimination by employers against workers, as well as penalties in this respect, in order to ensure the effectiveness in practice of Article 1 of the Convention (287th Report, para. 155). It also reiterated its recommendation recalling the need to ensure, by means

of specific provisions and sufficiently dissuasive penalties, that workers are protected against acts of anti-union discrimination by their employer.

With regard to protecting the right to establish organizations and their independence, upon which the CDT and the UGTM also commented, the Committee notes that the Government refers to the Dahir of 16 July 1957 respecting occupational organizations. The Committee notes, however, that the above text does not contain any provision which explicitly protects workers against acts of anti-union discrimination or which protects workers' organizations against acts of interference.

The Committee also recalls that it noted in the past that acts of anti-union discrimination had been raised in several complaints before the Committee on Freedom of Association (Cases Nos. 992, 1017 and 1116).

In these circumstances, in the same way as the Committee on Freedom of Association, the Committee of Experts is bound once again to urge the Government to take legislative or other measures in the near future to ensure the application of the Convention.

Article 4. The Committee had also requested the Government to make detailed observations on the comments of the CDT and UGTM concerning the functioning of collective bargaining procedures.

The Committee notes, according to the information provided by the Government in its report, that negotiations and consultations between the social partners currently take place within the framework of special commissions including representatives of all trade union and economic groups. The Industrial Relations Committee, which is composed of representatives of the administration and of employers' and workers' organizations, has prepared a draft collective agreement based on the recommendations of the High Council of Collective Agreements. A draft framework agreement has been prepared for the sugar sector.

The Government also states that the Constitution, as amended in 1992, provides for the establishment of an economic and social council.

With regard to consultation and arbitration commissions, the regulations of which were issued by a Dahir of 1946, the Government states that they were unable to fulfil their functions and that the competent authorities are preparing draft legislation on the settlement of disputes.

The Committee notes from the Government's report that various draft texts have been prepared. The Committee requests the Government to supply detailed information on the adoption and implementation of these texts. In particular, it requests the Government to supply information on the composition, competence and establishment of the Economic and Social Council and its relationship with the High Council of Collective Agreements and the Industrial Relations Committee.

The Committee notes that the Government refers to case-law relating to dismissals on the grounds of the trade union activities of workers. It requests the Government to supply the text of any ruling issued by judicial bodies in this respect.

The Committee also requests the Government to supply information on the practical rules which are currently in use for the settlement

of collective labour disputes, and on the progress achieved in the preparation of draft legislation in this field.

The Committee also requests the Government to supply information on the application of the model agreement for the sugar sector and on the number of collective agreements which have been concluded in the various sectors of the economy, the procedures followed for the renewal of collective agreements, the number of workers covered, etc.

Nicaragua (ratification: 1967)

The Committee notes the Government's report and recalls that its previous comments referred to:

- the need to obtain the approval of the Ministry of Labour before collective agreements can come into force (Decree No. 530 of 24/09/1980, section 1); and
- the need for the Government to refrain from any intervention in collective bargaining and to confine itself to promoting collective bargaining.

The Committee notes with interest that section 4 of Act No. 97, of 19 April 1990, to reform and supplement the Labour Code, repeals Decree No. 530 (of 24/09/1980) which empowered the Ministry of Labour to approve collective agreements. It also notes the adoption of Act No. 102 of 23 May 1990, which repeals almost all of the provisions of Act No. 97 above, leaves in force section 4. The Committee also notes that, according to the Government, collective bargaining is currently bilateral and free and, also insofar as the negotiation of wages is concerned, takes place without interference by the Ministry of Labour.

The Committee requests the Government to make specific mention in its next report of the measures which have been adopted, both in law and in practice, to promote collective bargaining and to refrain from any intervention which could restrict the freedom to conclude collective agreements, as recommended by the Commission of Inquiry in 1990.

Pakistan (ratification: 1952)

The Committee takes note of the Government's report of 2 October 1992 and of several communications from the All Pakistan Federation of Trade Unions (APFTU) dated 8 July 1992 and 11 January and 11 October 1993. It further notes the discussions in the Conference Committee in 1992 and 1993, and that a direct contacts mission took place from 15 to 22 January 1994, between a representative of the Director-General and the Government.

The Committee's previous observations referred to inconsistencies between the national legislation and various Articles of the Convention:

- Article 4 of the Convention, limitations on free collective bargaining in the banking and financial sector (sections 38A to 38I of the Industrial Relations Ordinance, 1969); and
- denial of the rights guaranteed by Articles 1, 2 and 4 for workers in export processing zones (section 25 of the Export

Processing Zones Authority Ordinance, 1980) and employees of Pakistan International Airlines Corporation (section 10 of the Pakistan International Airlines Corporation Act, 1956).

The Committee takes note of the report of the direct contacts mission, during which all these issues were discussed with the authorities and the various workers' and employers' organizations. It further notes that the Government expressed its continued interest in receiving technical assistance from the Office on these matters.

The Committee also notes that a tripartite task force was established recently, with a wide mandate on labour and industrial relations issues. The Committee hopes that this initiative, together with the recommendations of the direct contacts mission, will soon lead to substantial progress on the above-mentioned issues, for which the Office may provide technical assistance.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Panama (ratification: 1966)

The Committee notes the Government's report and recalls that its previous comments referred to:

- the need to grant the right to bargain collectively to public servants not engaged in the administration of the State;
- restrictions on collective bargaining which extend current collective agreements for a further two years (section 1), and exempt for three years from the obligation to conclude collective agreements new enterprises or enterprises which have not already concluded such agreements (section 2 of Act No. 13 of 11 October 1990);
- denial of the possibility of collective bargaining for a period of four years in multisectoral zones (Act No. 16 of November 1990, section 34).

The Committee notes with satisfaction that Act No. 2 of 13 January 1993, under which "collective bargaining is recommenced and other measures adopted" repealed section 2 of Act No. 13 of 11 October 1990 and re-established the free exercise of collective bargaining, and that from the date of its coming into force 47 collective agreements have been concluded. The Committee notes moreover that Act No. 25 of 30 November 1992 repealed Act No. 16 of 1990, and that section 55 of Act No. 25 provides that the standards set out in the provisions of the Labour Code apply to relations between employers and workers in industries and enterprises established in export processing zones. The Committee requests the Government to supply information in its next report on the collective agreements which have been concluded in these zones.

With regard to the need to grant the right to bargain collectively to public servants not engaged in the administration of the State, the Committee regrets to note that the Government's report contains no information in this respect.

The Committee once again urges the Government to take steps to ensure that this category of workers enjoys the right to bargain

collectively in law and practice, in accordance with Articles 4 and 6 of the Convention.

Papua New Guinea (ratification: 1976)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which dealt with the following points:

The Committee had asked the Government to amend the national legislation which gives the authorities discretionary power to cancel arbitration awards or declare wages agreements void when they are contrary to government policy or national interest (section 42 of the Industrial Relations Act and section 52 of the Public Service Conciliation and Arbitration Act), contrary to Article 4 of the Convention.

The Committee noted that the Government stated that due to the acute shortage of manpower in the relevant department the drafting of the amendments had not yet been attended to. Noting that the Government required the full-time input of an official to look into further amendments as well, the Committee considers that this is a case where the technical assistance of the ILO should be drawn on. It thus hopes that the Government will take up this offer as soon as possible and will be able to indicate in its next report that the necessary amendments have been tabled and adopted.

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

Paraguay (ratification: 1966)

The Committee notes the Government's report, the information supplied by the Government representative to the Conference Committee in 1993 and the subsequent discussions in that Committee. The Committee also notes the provisions of the new Labour Code of 29 October 1993 relating to freedom of association and collective bargaining, and recalls that its previous comments referred to:

- the lack of protection provided for public servants who are not engaged in the administration of the State, public employees and workers in public enterprises against acts of anti-union discrimination;
- the lack of protection for the organizations of this category of workers against acts of interference by employers or their organizations;
- the need to guarantee them the right to bargain freely.

The Committee notes with satisfaction that the national Constitution of 1992 and the new Labour Code of October 1993 contain various provisions which improve the application of Articles 1, 2 and 4 of the Convention.

In specific terms, section 96 of the Constitution and section 317 of the Labour Code protect trade union leaders from dismissal; section 63 prohibits employers from influencing the trade union convictions of

their workers (subsection (d)), from compelling workers to terminate their membership of the trade union or branch association (subsection (f)), and from using a "blacklist" against workers who resign or are dismissed with a view to preventing them from finding employment (subparagraph (g)); section 286 of the Labour Code provides protection against any act of interference; section 97 of the Constitution and sections 290(b) and 291(k) of the Labour Code recognize the right to collective bargaining of workers in both the public and private sectors; section 334 makes it compulsory for any enterprise which employs 20 or more workers to engage in collective bargaining; and section 2 of the Labour Code includes workers in state enterprises within the scope of the Code.

Nevertheless, the Committee notes that the new Labour Code does not include provisions protecting workers who are not trade union leaders against dismissal for trade union activities. Moreover, the penalty set out in section 385, which amount to a fine of a minimum of from 10 to 30 days' wages in the event of the non-observance of the provisions of the Labour Code including in case of anti-union discrimination or interference where there are no other special penalties as well as the penalty of 30 days' minimum wage for violations by the employer of the protection set out in section 393 against the dismissal of trade union leaders are not sufficiently dissuasive.

The Committee recalls that Article 1 of the Convention provides that workers shall enjoy adequate protection against acts of anti-union discrimination, both during recruitment and in the course of employment, and covers all measures of anti-union discrimination (dismissals, transfers, demotions and any other prejudicial acts), and that the effectiveness of legal provisions depends to a large extent on the way in which these provisions are applied in practice and on the penal sanctions which are established being sufficiently dissuasive (see the 1994 General Survey on Freedom of Association and Collective Bargaining, paragraphs 211 to 222).

The Committee requests the Government to take measures to adapt the legislation to the requirements of the Convention and to report any development in this respect.

The Committee notes that the Government has not replied to its comments concerning the prohibition on the establishment of associations of employers (sections 10 and 12 of the "Memoranda of agreement on labour relations and social security in the hydro-power plant "Yacireta") and it therefore once again requests the Government to determine the scope of these provisions in relation to the right to collective bargaining contained in Article 4 of the Convention.

Peru (ratification: 1960)

The Committee notes the Government's report, the provisions of the new Constitution of 1993 and of the new Industrial Relations Act of 26 June 1992, and the Regulations issued thereunder, as they regard freedom of association, as well as the interim conclusions of the Committee on Freedom of Association in respect of Cases Nos. 1648 and

1650 (291st Report, paragraphs 435-474, approved by the Governing Body at its 258th (November 1993) Session).

The Committee notes with interest that the Industrial Relations Act (fifth transitional and final section) repealed the provisions respecting the intervention of the Government in collective bargaining (Presidential Decree No. C17-82/TR), the approval of collective agreements by under-directors of labour (Presidential Decree No. 003-72/TR), and compulsory arbitration at the request of one of the parties (section 13 of Presidential Decree No. 009-86/TR), which had been the subject of comments by the Committee of Experts.

Articles 1 and 2 of the Convention

Nevertheless, the Committee notes that the 1992 Act does not provide for any sanctions to guarantee the protection of workers against acts of anti-union discrimination nor to protect organizations of workers against acts of interference by employers. In this respect, the Committee wishes to point out that the existence of basic standards prohibiting acts of anti-union discrimination or interference in trade union activities is not enough if they are not accompanied by effective and sufficiently dissuasive procedures to ensure their application in practice (see 1994 General Survey on Freedom of Association and Collective Bargaining, paragraphs 230 and 232).

The Committee also refers below to the provisions of the new Act and its regulations, which may still give rise to problems in the application of the Convention:

- the requirement of a majority not only of the number of workers, but also of enterprises, in order to conclude a collective agreement for a branch of activity or occupation (section 46);
- the obligation to renegotiate collective agreements which are currently in force (fourth transitional and final section, and sections 43(d) of the Act and 30 of its regulations).

The Committee requests the Government to take initiatives to amend the legislation so as to include appropriate measures against acts of anti-union discrimination and interference by employers in the activities of trade union organizations and, in the same way as the Committee on Freedom of Association, requests the Government, in consultation with the social partners, to take steps to amend the legislation so as to enable organizations of employers and workers to exercise freely and without impediment the right to collective bargaining, in accordance with Article 4 of the Convention.

The Committee requests the Government to supply information in its next report on the measures which are envisaged or have been adopted in this respect.

Poland (ratification: 1957)

The Committee takes note of the Government's report and its reply to the observations made by NSZZ "Solidarnosc".

The Committee recalls that in its previous communications, the NSZZ "Solidarnosc" considered that the sanction for acts of anti-trade

union discrimination and acts of interference in trade union activities, provided for in the Trade Union Act of 23 May 1991, was only a fine of up to 50,000 zlotys (section 35), was not sufficiently effective and dissuasive to guarantee adequate protection as laid down in the Convention (Articles 1, 2 and 3 of the Convention).

The Government indicates in its report that the NSZZ's proposal to punish acts of anti-union discrimination and interference in trade union activities by imprisonment of up to three years and deprivation of the right to hold a managerial post was not approved by Parliament when it debated the Trade Union Bill. The Government explains that the introduction of penal sanctions for such acts would mean introducing similar penalties for illegal trade union activities, including participating in illegal strikes, which would considerably impair the legal situation of unionized workers. It points out, however, that the offences mentioned in the Trade Union Act of 23 May 1991 are subject to fines of from 500,000 to 2,500,000 zlotys under the Code. It adds that when the Trade Union Act is amended it plans to examine the possibility of replacing the present system of fixed-amount fines by a system of variable-amount fines to be reckoned on a daily basis taking account of the seriousness of the offence and the offender's income.

The Committee notes this information with interest and asks the Government to keep it informed of any further developments in this respect.

Portugal (ratification: 1964)

The Committee notes all the information contained in the Government's report.

Articles 4 and 6 of the Convention. With reference to its previous comments on the right of the Minister concerned to intervene in the collective bargaining process in public sector enterprises, the Committee notes with satisfaction that section 24 of Legislative Decree No. 519/C1/79, as amended by Legislative Decree No. 87/89 of 23 March 1989, has been repealed by Legislative Decree No. 209/92 of 2 October 1992, communicated by the Government, which makes no reference to prior authorization of the Minister concerned for the entry into force of a collective agreement concluded in a public enterprise.

Sierra Leone (ratification: 1961)

The Committee notes the information supplied in the Government's report in answer to its previous comments.

As regards the application of Articles 1 and 2 of the Convention, the Committee notes that the revision of the Labour Laws, prepared with ILO technical assistance, has already been submitted to tripartite meetings the conclusions of which will be sent to the Office, and that the competent national authorities will examine the final draft after further tripartite consultations. The Committee asks the Government to keep it informed of progress in this respect and to

provide a copy of the revised legislation as soon as it has been adopted.

With regard to the right to collective bargaining of teachers, the Committee notes with interest that under Government Notice No. 292 of 20 October 1993 a Trade Group Negotiating Council has been created covering all teachers in the country.

It notes, however, that Government Notice No. 325 of 18 November 1993 establishes the teaching service as an essential trade group under section 17(4) of the Regulation of Wages and Industrial Relations Act, 1971, which provides that, should such trade groups fail to reach agreement in negotiations, the Minister shall refer the matter to compulsory arbitration in accordance with section 17(2) of the Act. In the Committee's view, these provisions are not such as to encourage and promote the development and utilization of machinery for voluntary collective bargaining in the teaching sector. The Committee asks the Government in its next report to provide information on how these provisions are applied in practice to teachers (including the text of any collective agreement covering teachers, the number of disputes referred to arbitration, and the nature of such disputes, arbitration awards, etc.).

Singapore (ratification: 1965)

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

The Committee recalls that its previous observations on inconsistencies between the national legislation and Article 4 of the Convention concerned the following points:

- a quantum limit on the amount of annual wage supplements (AWS) in new enterprises (section 48(3) of the Employment Act as amended in 1988);
- limitations on the scope of matters open to collective bargaining (section 17 of the Industrial Relations Act); and
- discretion of the Industrial Arbitration Court to refuse to register collective agreements concluded in newly established enterprises (section 25 of the Industrial Relations Act).

1. It notes the information supplied in the Government's report, in particular concerning the history behind the amendment, after tripartite consultations, of sections 48, 49 and 50 of the Employment Act already noted with interest in last year's observation. According to the Government, the wage system in place after these amendments consists of a basic monthly wage, an annual increment, a variable bonus component linked to company performance which can all be the subject of negotiation, and the AWS which, again by negotiation, can be retained, dropped or converted into other benefits. The quantum limit of one month's wages or less in newly created companies was decided on so as to encourage such companies, with the support of the unions, to pay more in the form of a variable bonus linked to company performance; the Government thus considers that the limits

established in section 48 should not be regarded as a restriction on collective bargaining. The Committee takes due note of the Government's insistence that the AWS limit was the outcome of full tripartite consensus; nevertheless, it must recall the terms of Article 4 regarding the autonomy of the two parties involved in bargaining and the principles that where, for general economic reasons, the public authorities lay down standards or adopt measures to influence wage determination, these may at times assume the nature of veritable wage controls. The Committee has already drawn the Government's attention to the fact that, rather than imposing restrictions on collective bargaining - even if just on one element of the wage packet and only in newly created companies - it could take steps to persuade the bargaining parties to have regard voluntarily in their negotiations to economic and social policy considerations so that persuasion is used rather than constraint.

2. The Committee also notes the Government's contention that those areas listed in section 17 of the Industrial Relations Act are commonly regarded as management functions outside the scope of collective bargaining; as in past reports, it stresses that employers are nevertheless expected to, and do in practice, consult with the concerned unions if a decision taken in one of those areas would affect their employees. The Government adds that since the introduction of this provision in 1968 it has not hindered the conduct of industrial relations or the promotion of labour-management cooperation and points to the rapid economic growth for the benefit of workers, companies and the economy in Singapore over the years. The Committee has consistently stated that the legislative exclusion from bargaining of certain matters relating to conditions of employment (such as here: promotion, transfer, appointment, dismissal and assignment of duties) is not compatible with Article 4. It accordingly again asks the Government to take steps to bring section 17 into line with its obligations arising under the Convention.

3. The Government states that it reviews the Industrial Relations Act periodically and that it has taken note of the Committee's comments on section 25. The Committee trusts that, in its next report, the Government will indicate the measures taken or contemplated to promote, in newly established enterprises, the development and utilization of voluntary collective bargaining free of the risk of concluded agreements remaining ineffective by reason of their non-registration by the Labour Arbitration Court using its powers under section 25. The Committee also asks the Government to indicate in its next report whether any agreement has been refused in the period covered by the report.

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

Sri Lanka (ratification: 1972)

1. With reference to various communications from the Lanka Jathika Estate Workers' Union, in relation to collective bargaining in

the plantations sector (Article 4 of the Convention), the Committee notes the information supplied by the Government in its report to the effect that management of estates which were in the hands of the Government has been transferred to the private sector and that this change created the opportunity for negotiation and for the conclusion of collective agreements in the plantations. The Committee further notes with interest that four collective agreements have already been entered into and that according to the Government at present no other obstacles exist to encourage and promote the full development and utilization of machinery for voluntary negotiation of terms and conditions of employment by means of collective agreements.

The Committee would ask the Government to continue to provide in its next reports information on any progress made in collective bargaining in the plantations, including the text of any collective agreements as well as on any new collective agreements which might have been concluded during the reporting period.

2. Further to its previous comments on the necessity to adopt legislative provisions to ensure full conformity with the requirements of Articles 1 and 2 of the Convention, the Committee takes due note of the Government's indication in its report that action is being taken to amend the Industrial Disputes Act No. 43 of 1950 and that a special chapter on unfair labour practices will be introduced in the Act in order to ensure that unfair labour practices are deemed to be an offence under the Act.

The Committee also notes the Government's explanations on the trade union rights maintained notwithstanding the state of emergency, and the indication of a possible amendment to the emergency regulations to exempt industrial disputes from the application of these regulations.

The Committee expresses the firm hope that the Government will do everything in its power to ensure that the amendments to the Industrial Disputes Act currently being prepared are adopted in order to ensure full protection of workers against acts of anti-union discrimination and of workers' organizations against acts of interference accompanied by effective and sufficiently dissuasive measures, and asks the Government to indicate any progress made in this respect in its next report.

The Committee notes the Government's interest for the technical services of the Office available to it in relation to the preparation of these measures.

Sudan (ratification: 1957)

The Committee has taken note of the recommendations of the Committee on Freedom of Association in Case No. 1508 in its 284th Report, in which it noted with concern the numerous and serious incompatibilities of the new Trade Union Act with the principles of freedom of association - and in particular the lack of protection afforded to workers against acts of anti-union discrimination. The Committee observes that in its conclusions on the case, the Committee on Freedom of Association had stressed that the Act did not contain any provision to ensure respect for the right to organize as defined

in Articles 1 and 2 of the Convention (paragraph 438) and that it was silent on the promotion of voluntary negotiation between employers' and workers' organizations (paragraph 439), covered by Article 4 of the Convention.

The Committee asks the Government to give full information on the measures taken to amend its legislation so as to bring it into conformity with the Convention.

[The Government is asked to supply full particulars to the Conference at its 81st Session and to report in detail for the period ending June 1994.]

Swaziland (ratification: 1978)

The Committee notes the Government's report. In its previous comments, the Committee referred to the following points which derive from the 1980 Industrial Relations Act.

Article 2 of the Convention. The need to adopt a specific provision accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organizations against acts of interference by employers and their organizations.

Article 4. The need to restrict the occupational tribunals' power to refuse registration except on procedural grounds or because the clauses of the agreements are not consistent with the minimum standards of labour legislation, whereas at present the tribunal is able to refuse registration of collective agreements that are not consistent with government directives on wages and wage levels.

The Government indicates in its report that a draft Industrial Relations Act prepared with the technical assistance of the Office has been submitted to the Labour Advisory Board for comments but that there was no agreement on whether the document should be modified before recommendations could be made for its adoption, and that a tripartite commission has been appointed to inquire into all aspects of labour but had not yet given its report.

The Committee hopes that the Government will take the necessary measures and that the legislation will be amended so as to give full effect to the Convention. It asks the Government to keep it informed of any developments in that matter.

Syrian Arab Republic (ratification: 1957)

The Committee notes that the Government's report has not been received.

However, the Committee takes note of the information supplied by the Government to the Conference Committee in June 1992 and of the discussion which took place thereon.

For several years, the Committee has invited the Government to amend article 98 of the Labour Code, which enables the Minister to refuse to approve a collective agreement and to annul any clause likely to harm the economic interests of the country. The Government refers to its previous replies and states that there is no opposition between article 98 and the Convention.

As the Committee has always pointed out, only questions of form or of non-conformity with the minimum standards of labour law could justify such a system of prior approval. The Committee therefore asks the Government to take suitable measures to amend article 98 of the Labour Code and instead to persuade the parties to collective bargaining to have regard in their negotiations to major economic and social policy considerations and the general interest invoked by the Government.

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

United Republic of Tanzania (ratification: 1962)

The Committee notes the Government's reports and the Industrial Court of Tanzania Act No. 2 of 1993 which amends the Permanent Tribunal Act No. 41 of 1967.

Further to its previous comments, the Committee observes that under sections 23(2), 22(e) and 39 of the Act, the Court retains discretionary power to decide whether or not to register an agreement. The Committee stresses again that the right of employees to negotiate freely wages and terms of employment with employers is a fundamental aspect of freedom of association and that, rather than subjecting the validity of collective agreements to government approval, steps should be taken to persuade the parties to have regard voluntarily in their negotiations to major economic and social policy considerations, the final decision on the matter resting with the parties to the agreement (1994 General Survey on Freedom of Association and Collective Bargaining, paragraphs 251-253).

The Committee further notes from the reports that it is the Government's position not to intervene in voluntary agreements in practice.

The Committee asks the Government to provide information on measures taken to promote voluntary collective bargaining and to indicate in its next report whether the registration of any agreements has been refused by the Court as well as the reasons given for such refusal.

Trinidad and Tobago (ratification: 1964)

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

The Committee noted the Government's communication of April 1991, whereby it indicated that, within the context of the current revision of the Central Bank Act, 1964, consideration was to be given to the establishment of an appropriate mechanism to deal with the grievances of the Central Bank's employees, in the light of the representations made by the Staff Association of the Central Bank of Trinidad and Tobago. The Committee requests once again the Government to keep it informed of the developments in this respect.

The Committee also referred to the comments it has been making since 1973 on the necessity to amend section 34 of the Industrial Relations Act, in order to allow minority unions unable to reach a membership of 50 per cent of the workers in a bargaining unit, to negotiate collectively employment conditions and to have the right to pursue individual grievances at least on behalf of their members. In its previous observation, the Committee noted that the Government proposed to solicit the views of the social partners on this matter and would keep the ILO informed. The Committee requests once again the Government to provide in its next report information on the result of said consultations and on any development in that respect, including measures taken by the Government to bring its legislation into conformity with the Convention.

Turkey (ratification: 1952)

The Committee notes the information supplied by the Government in its report and the discussions that took place at the Conference Committee in June 1993, as well as the comments of the Confederation of Turkish Labour Real Trade Union (HAK-IS) and of the Confederation of Turkish Trade Unions (TURK-IS).

The Committee recalls that for several years it has been commenting on the fact that trade unions may negotiate collectively only if they represent for at least 10 per cent of the membership of a branch and more than 50 per cent of the employees of an establishment, that arbitration is compulsory in collective disputes which are not a threat to essential services and that public servants are denied the right to bargain collectively.

1. The Committee notes the information provided by a Government representative to the Conference Committee and by the Government in its report, to the effect that the numerical requirements laid down in section 12 of Act No. 2822 have been maintained because of a consensus between the main social partners, but that the Government will endeavour to amend them in accordance with the Committee's wishes.

The Committee expresses the hope that the Government will indeed take the necessary measures to remove the two numerical requirements from the national legislation in order to encourage and promote the full development and utilization of machinery for voluntary collective bargaining, in accordance with Article 4 of the Convention.

2. With regard to the collective bargaining rights of public servants, the Government indicates that in order to ensure the conformity of the legislation with Convention No. 87 which Turkey has recently ratified, a Bill on the trade union rights of public servants has been submitted to the social partners for discussion. It adds that, in practice, public servants have already formed organizations and that the Prime Minister's circular, No. 1993/15 of 15 June 1993, has eliminated the practical obstacles to the exercise of their trade union rights.

TURK-IS, for its part, regrets that the union activities of the public servants' organizations have been impaired by administrative decisions, that public servants have been subjected to anti-union

discrimination and that their collective bargaining rights have still not been guaranteed.

The Committee notes this information and these comments. It expresses the firm hope that the Bill will guarantee that public servants have the right to negotiate the conditions of their employment collectively. It asks the Government in its next report to indicate any progress made in this respect and to provide a copy of the Bill as soon as it has been adopted.

3. The Committee regrets to note that the Government repeats that compulsory arbitration is resorted to only in strictly defined conditions, in the context of procedures bringing together the two social partners and only in exceptional circumstances in order to protect workers who would otherwise be deprived of an essential means of protecting their occupational interests.

The Committee recalls that the imposition of compulsory arbitration is contrary to the promotion of voluntary collective bargaining and should be limited to essential services in the strict sense of the term, that is services the interruption of which would endanger the life, safety or health of the whole or part of the population, and again asks the Government to take the necessary measures at the earliest possible date to amend section 33 of Act No. 2822 to bring it into conformity with the principle referred to above, and to indicate in its next report any progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Uganda (ratification: 1963)

The Committee notes the Government's report.

With reference to comments it has been making for many years on the need to grant the rights guaranteed by the Convention to workers of the Bank of Uganda, who cannot be considered as public servants engaged in the administration of the State, the Committee notes with satisfaction that the Trade Union Laws (miscellaneous amendments) Statute of 31 January 1993 has amended section 72(2)(c) of the Trade Unions Decree, No. 20 of 1976, by removing the employees of the Bank of Uganda from the category of employees who are restricted from becoming members of a trade union, and that these workers are now entitled to join unions and to negotiate their terms and conditions of employment collectively.

United Kingdom (ratification: 1950)

The Committee notes the report of the Government, and the communications from the Trades Union Congress (TUC) dated 23 December 1992, 5 February, 28 May and 27 August 1993. It also notes the conclusions of the Committee on Freedom of Association in Case No. 1618 [287th Report of the Committee, approved by the Governing Body at its 256th Session (May 1993)].

1. Article 1 of the Convention. (a) Denial of employment on grounds of trade union membership or activity. In reply to the

Committee's previous requests for detailed information on the protection available against denial of employment on grounds of past trade union membership or activity, and the remedies available to those subjected to unlawful discrimination and the penalties which may be imposed in cases of such discrimination, the Government refers the Committee to the series of observations it made to the Committee on Freedom of Association in respect of Case No. 1618, and provides certain additional information. The Committee notes with interest from this additional information that the maximum amount of compensation payable to an individual who has been unlawfully refused employment for reasons relating to trade union membership is now £11,000 and that the Economic League has now been disbanded. The Government further states that the Trade Union Reform and Employment Rights Act 1993 will have the effect of enhancing United Kingdom compliance with Article 1. Under United Kingdom law, the right not to be unfairly selected for redundancy on grounds of trade union membership, activities, or non-membership had previously been subject to qualifying conditions; full-time employees in general had to have two years' continuous service. Paragraph 1 of Schedule 7 to the 1993 Act removes these qualifying conditions. Employees selected for redundancy because of their union membership or activities, regardless of their length of service or hours of work, will henceforth be able to complain of unfair treatment and obtain a remedy under the law.

While noting all of the above information and recognizing that United Kingdom legislation, in the form of the Trade Union and Labour Relations (Consolidation) Act 1992, may provide some remedy against acts of anti-union discrimination, the Committee considers that the existence of legislative provisions prohibiting acts of anti-union discrimination is not sufficient if these provisions are not accompanied by effective procedures ensuring their application in practice, and that machinery appropriate to national conditions should be established, where necessary, to ensure respect for the right to organize. In this respect, the Committee, like the Committee on Freedom of Association in Case No. 1618, regrets that the Government did not take any measures to implement the recommendations of the House of Commons Select Committee to the extent necessary to protect workers against discrimination in relation to trade union membership or activities.

(b) Trade Union Reform and Employment Rights Act 1993. In its communications of 28 May and 27 August 1993 which have been referred to the Committee on Freedom of Association (Case No. 1730), the TUC contends that section 13 of the Trade Union Reform and Employment Rights Act 1993 discriminates against trade union members and puts them at a disadvantage in their employment. The Committee notes the Government's statement that it is currently preparing its observations on that case.

(c) Dismissals in connection with industrial action. In its 1992 observation under Convention No. 87, the Committee had once again requested the Government to introduce legislative protection against dismissal and other forms of discriminatory treatment in connection with strikes and other industrial action.

In its response to the Committee's 1992 observation, the Government once again points out that Convention No. 87 is concerned

with the protection of the freedom to form employers' and workers' organizations and the rights of such organizations, but that the treatment of individual workers (including the matter of dismissal or disciplinary penalties being imposed by an employer) gives rise to issues that are the subject of other Conventions, including Convention No. 98. The Government further indicates, with regard to the particular points made in the TUC's communication of 22 January 1992 and as quoted in the Committee's 1992 observation, that it is incorrect to state that: (i) the provisions of section 62A of the Employment Protection (Consolidation) Act 1978 can have the effect of denying an employee's right to claim unfair dismissal if the employee is not participating in unofficial action at the time of the dismissal; and (ii) the changes made by the Employment Act 1990 to the law on union liability for acts of organizing industrial action have the effect that a union may be liable for any such act by its "members" (as opposed to its officials or those associated with such officials in particular ways).

The Committee notes however that under section 237 of the Trade Union and Labour Relations (Consolidation) Act 1992, an employee has no right to complain of unfair dismissal if at the time of dismissal he was taking part in an unofficial strike or other unofficial industrial action which includes secondary action (section 224). The Committee further notes that the Trade Union Reform and Employment Rights Act 1993 broadens the definition of what could constitute an unofficial industrial action since section 7 repeals sections 115 and 116 of the 1992 Act (on financial assistance towards expenditure on certain ballots and obligations of employers to make premises available to organize a strike vote) and section 17 introduces the obligation of postal ballot to call for industrial action.

The Committee therefore can only reiterate its previous comments to the effect that workers should enjoy real and effective protection against dismissal or any other disciplinary measure taken by reason of their participation, whether actual or proposed, in legitimate forms of industrial action.

Moreover, the Committee would invite the Government and the TUC to provide particulars on the legal and factual situation in this respect, including examples of judicial or quasi-judicial decisions involving the application of the relevant provisions.

2. Article 4. Determination of school teachers' pay and work conditions in England and Wales. In its 1992 observation, the Committee had noted the communications received from various trade union organizations, which mainly concerned the determination of teachers' pay and work conditions in England and Wales, in the light of the School Teachers' Pay and Conditions Act, 1991, which came into force on 22 August 1991, and had stated that it would look into these issues in the light of the observations transmitted by the Government.

In its report the Government states that it took careful note of the Committee on Freedom of Association's consideration of Case No. 1518, and that it had been particularly concerned to ensure that teachers were treated in a way which recognized and enhanced their professional status. It believed that the establishment of a Review Body for teachers was the best way of achieving that. As a result, the Secretary of State for Education and Science announced on 17 April

1991 the Government's decision to withdraw the legislation giving effect to the proposals for negotiating arrangements which had previously been considered by the Committee and the Committee on Freedom of Association. The Government decided instead to establish an independent Review Body to make recommendations on the pay and conditions of teachers in England and Wales. As a result, the situation which was previously criticized no longer exists. The Government further points out that the National Association of Schoolmasters/Union of Women Teachers (NAS/UWT) withdrew its previous complaint in a communication of 17 December 1991 to the ILO, and that all but one of the six national unions representing teachers in service have publicly endorsed the establishment of the Review Body.

With respect to the Committee's request for information on the practical functioning of the new machinery in its 1992 observation, the Government indicates that the Review Body was appointed by the Prime Minister under the School Teachers' Pay and Conditions Act 1991 and reports to him. The Review Body is under a statutory duty to give notice of any matters referred to it by the Secretary of State, and of any directions which he should give to it, to: (i) bodies representing schoolteachers; (ii) associations of local education authorities; and (iii) bodies representing the interests of voluntary schools, and grant-maintained schools. The Review Body also has a statutory duty to afford the above bodies a reasonable opportunity to submit evidence and make representations. In the same way, section 2(1) of the Act obliges the Secretary of State to consult the bodies listed above before making a Pay and Conditions Order. If he fails to consult them, any Order he makes could be challenged through the courts and declared void.

The Committee notes from the Government's report that the Review Body is not subject to a predetermined financial constraint. The Secretary of State is able to give directions to the Review Body as to considerations to which it is to have regard. However, having had regard to those considerations, the Review Body is free to make whatever recommendations it thinks fit. Furthermore, the Government has undertaken to implement those recommendations unless there are clear and compelling reasons not to do so. Where the Government does propose materially to modify the Review Body's recommendations, Parliament has the opportunity to debate and vote on that decision.

As regards the Review Body's working practices, the Government submits that an essential part of the process is that both employers and teacher associations submit evidence and put their case directly to the Review Body. While those elements of a teachers' contract of employment which relate to pay, professional duties and working time are determined by statute on the basis of the Review Body's recommendations, all other conditions of service, such as sick pay and maternity leave, can be decided by negotiation between teachers and their employers. The Government further submits that for the 1992 and 1993 rounds, the Association of Teachers and Lecturers, the National Association of Head Teachers, the National Association of Schoolmasters/Union of Women Teachers, the National Union of Teachers, the Professional Association of Teachers, the Secondary Heads Association, and the National Employers' Organisation for School Teachers:

- submitted written evidence to the Review Body;
- made face-to-face representations to discuss their submissions and the submissions of the other parties (which the Review Body arranged to circulate on receipt);
- submitted written comments on response to the Secretary of State's consultation on the draft Pay and Conditions Order; and
- accepted the Secretary of State's invitation to make any points direct to him (save that the National Association of Head Teachers declined a meeting in 1992).

In both years there was a further period of technical consultation with all teacher unions and the employers' associations on the draft pay and conditions document and its accompanying circular of guidance. In 1993 this has also involved a number of meetings at official level. The Review Body's 1992 Report recommended an across-the-board increase of 7.5 per cent - well above inflation, and significantly higher than current levels of increase in the public and private sectors generally, which the Government accepted in full, providing an additional grant of £60 million to help local education authority employers to meet the full cost of the award. In 1993 the Review Body recommended a general pay increase for qualified teachers of 1 per cent on 1 April 1993, and of 1.5 per cent for unqualified teachers, with a major restructuring of pay arrangements for qualified classroom teachers from 1 September. The Government implemented the new pay structure recommended, but modified the values of the new pay spine from 1 September, and the pay rates applying to some teachers between 1 April and 31 August to ensure consistency with its approach to pay for all employees in the public sector.

The Committee notes the information provided by the Government, and trusts that the new pay review machinery for school teachers will not be applied in practice so as to hamper the freedom of collective bargaining.

Uruguay (ratification: 1954)

The Committee notes with interest the information supplied by the Government in its report that the National Public Education Board (ANEP) and the authorities have agreed upon measures to raise the wages and other benefits of teaching and non-teaching staff.

Venezuela (ratification: 1968)

The Committee takes note of the Government's report and the provisional conclusion of the Committee on Freedom of Association concerning Case No. 1612 (290th report, paragraphs 14-34, approved by the Governing Body at its 256th Session, May 1993).

The Committee recalls that its previous comments referred to the following points:

- the possibility for collective agreements to be concluded between organizations of civilian staff employed by the armed forces and independent institutions and state enterprises dependent on the Ministry of Defence (sections 7 and 8 of the Organic Labour Act);

- more effective and dissuasive penalties for acts of anti-union discrimination and interference (sections 637 and 639 of the Organic Labour Act).

The Committee notes that the Organic Labour Act does not apply to military staff but does apply to civilian personnel working for the Ministry of Defence and in independent institutes or enterprises dependent on the Ministry.

The Committee asks the Government to provide information on unions that have been established and collective contracts that have been concluded, that concern the above-mentioned civilian personnel.

The Committee furthermore again asks the Government to consider adopting measures to ensure that the penalties applying to acts of anti-union discrimination and interference (sections 637 and 639 of the Organic Act), are sufficiently effective and dissuasive.

The Committee expresses the hope, as did the Committee on Freedom of Association in Case No. 1612, that the Government will take the necessary measures, in consultation with the social partners, to allow workers, in the absence of an organization, to conduct without hindrance voluntary and free collective negotiations, if both parties so wish.

The Committee asks the Government in its next report to provide information on measures taken in this respect.

Yemen (ratification: 1969)

The Committee notes the Government's report and the information supplied by a Government representative to the Conference Committee in June 1993.

The Committee notes that, despite the assurances given by the Government in its previous report and to the Conference Committee in June 1993 that it was undertaking a revision of the national legislation with a view to bringing it into conformity with the requirements of the Convention, the Government confines itself in its report to repeating the information provided previously that the draft texts of the new Labour Code and a Bill respecting trade unions contain provisions to give effect to the Convention.

In these circumstances, the Committee recalls that for several years its comments have dealt with the following points:

- (a) the absence of specific and appropriate provisions, combined with effective and sufficiently dissuasive sanctions, to guarantee explicitly the protection of workers against any act of discrimination by employers, both at the time of recruitment and during employment, and the protection of workers' organizations against acts of interference by employers, contrary to Articles 1 and 2 of the Convention.
- (b) the absence of appropriate measures to encourage and promote the full development and utilization of machinery for the voluntary negotiation of collective agreements, and the compulsory registration of collective agreements and the possibility of their cancellation in the event that they do not conform to the security and economic interests of the country (sections 68, 69 and 71 of the Labour Code), contrary to Article 4 of the

Convention, under which it is the responsibility of the Government to establish the appropriate procedures to associate the social partners on a voluntary basis in the determination of the Government's social and economic policy, and by virtue of which collective bargaining shall also be free and may not be subject to legal restrictions.

The Committee expresses the firm hope that the Government will be able to supply information in its next report on the measures which have actually been taken to bring its legislation into conformity with the requirements of the Convention and, in particular, to adopt the new Labour Code, the draft text of which was prepared with the technical assistance of the Office, and the new Bill respecting trade unions.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Zaire (ratification: 1969)

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

1. With reference to its previous comments, the Committee notes from the information supplied by the Government that the draft Code adopted by the National Labour Council contains specific provisions to protect employers' and workers' organizations from acts of interference by each other and provides for a strengthening of the penalties applicable to an employer who commits acts of anti-trade union discrimination in respect of employment.

The Committee would be grateful if the Government would, as it undertook to do in its report, supply the text of the revised Labour Code when it has been adopted by the competent authority.

2. In its previous comment, the Committee requested the Government to indicate whether the measures taken by the Executive Council to fix the rates of wage increases in public enterprises, to which it referred in a previous report, were still in force.

In its report, the Government points out that the right of free collective bargaining is recognized for these enterprises in accordance with section 266 of the Labour Code and sections 13 and 14 of the National Inter-Occupational Collective Agreement. According to the Government, wage increases in public enterprises are agreed upon through free collective bargaining between employers' organizations (or an individual employer) and workers' organizations on the basis of the minimum wage (SMIG) fixed by order of the President after consultation with the National Labour Council and at the proposal of the Minister concerned.

While noting this information, the Committee requests the Government to indicate the measures taken by the Executive Council during the period covered by its next report as regards wages policy and to supply information on the manner in which the collective bargaining process in the public sector is carried

out, including the number of collective agreements concluded and specifying the public servants (excluding those engaged in the administration of the State) whose terms and conditions of employment and wages are determined by collective bargaining.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Barbados, Belarus, Belize, Benin, Brazil, Cameroon, Central African Republic, Chad, Comoros, Côte d'Ivoire, Ethiopia, Guinea, Guinea-Bissau, Honduras, Hungary, Indonesia, Ireland, Italy, Kenya, Lebanon, Mongolia, Philippines, Romania, Rwanda, Saint Lucia, Slovakia, Slovenia.

Information supplied by Antigua and Barbuda, Austria, Finland, Germany, Malawi, Mali, Poland, Ukraine and Venezuela in answer to direct requests has been noted by the Committee.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Requests regarding certain points are being addressed directly to the following States: Djibouti, Grenada, Guatemala, Malawi, Seychelles, Slovakia, United Kingdom.

Convention No. 100: Equal Remuneration, 1951

Argentina (ratification: 1956)

The Committee notes with interest the Government's report, the collective agreement of the tobacco industry, No. 175/91 from which all separate mention of the work of women has been removed, and the collective agreements applying in sectors of the economy where there is usually a predominance of women, such as: health, teaching, textiles and the textile and footwear industries, whose provisions apply to both sexes.

The Committee is raising other points concerning the application of the Convention in a direct request addressed to the Government.

Australia (ratification: 1974)

Referring to its previous observation, the Committee notes with satisfaction that the New South Wales Industrial Arbitration Act, 1940 (which provided for the declaration of a male basic wage and a female basic wage) has been repealed and replaced by the Industrial Relations Act, 1991, which came into force on 31 March 1992. Section 13 of the new legislation provides for the setting of an "adult basic wage", without differentiation on the basis of sex.

Austria (ratification: 1953)

With reference to its previous comments, the Committee notes with satisfaction the information supplied by the Government in its reports to the effect that the new collective agreement for the confectionery industry, which came into force on 5 March 1993, eliminated the wage scales "a" and "b" which had been seen to be establishing discriminatory wage rates, so that separate wage rates for men and for women no longer exist; as well as the 1992 amendment to section 2(2) of the Equality of Treatment Act (BGBl. No. 833/1992) which specifically incorporates the concept of "work of equal value" into that Act and requires respect for it in the fixing of wages in enterprise regulations (including collective agreements).

1. The Committee notes that the Federal Chamber of Labour comments that the wage structure in the country is marked by a clear discrimination against female workers and that it remains to be seen whether the amendment to the Equality of Treatment Act (in above-mentioned Act No. 833/1992) will change this by its improved provisions. Noting the Government's explanation of these 1992 amendments, the Committee asks to be kept informed of any cases arising under the new wording of section 2(2) and their treatment by the Equal Treatment Committee, as well as on the practical effect of the new legislative text.

2. The Committee notes the Government's statement - made also in previous reports - that, given the principle of autonomy of collective bargaining in the country, neither the public authorities nor the legislative bodies intervene in negotiations, but that the legality of provisions in collective agreements can be challenged by the parties in individual litigation. Noting also that, according to the Government, there is no information on any recent cases of a labour court finding a clause in a collective agreement to be discriminatory and thus rendering that clause null and void for the individual worker concerned, the Committee requests the Government to keep it informed, in future reports, of any cases where the principle of equal remuneration in a collective agreement is the subject of litigation, for example, before the Vienna Labour and Social Welfare Tribunal (as had been mentioned in previous Government reports).

3. With regard to statutory penalties for violations of the principle, in particular under section 6 of the Equality of Treatment Act (the Equal Treatment Committee to investigate, upon receiving complaints or on its own initiative, alleged infringements of the principle of equality of treatment; in case of non-compliance with a finding that an infringement exists, the Committee may apply to the labour court for confirmation of its finding), the Committee notes that, according to the Government, a declaratory judgement is currently being sought from the Industrial Tribunal in accordance with the procedure of section 6 with regard to whether a worker can claim payment of the difference in remuneration before that Tribunal. Should the Tribunal decide that it can order payment of the difference, the worker will lodge a claim for this payment against the employer, the claim having the force of the judgement. The Committee also notes the Government's statement that the Act does not provide for other penalties, such as fines, as well as its explanation that a worker can

in any case take legal proceedings concerning discriminatory payment without having first to use the section 6 procedure. The Committee asks the Government to inform it of any decisions of the Industrial Tribunal in such a case, and of any other case brought before the courts seeking redress of discriminatory wage conditions using the procedures of the Act.

4. The Committee is addressing a direct request to the Government on other points.

Barbados (ratification: 1974)

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

The Committee notes the information provided in the Government's report.

In observations made since 1984, the Committee has referred to differentials in the wages paid to men and women in the sugar industry. It has recalled that the Sugar Workers (Minimum Wage) Order, 1982, which set minimum hourly wages for 1983, fixed in factories a rate of \$3.23 for "General Workers, male", and a rate of \$2.68 for "General Workers, female". This Order was replaced by a collective agreement fixing minimum rates of pay for 1984-85, which increased the wage rates but maintaining the corresponding differential rates for men and women set by the 1982 Order, although explicit reference to the sex of the worker had been removed. Thus the agreement fixed, in factories, a minimum hourly wage of \$3.63 for "General Workers 'A' Class" and a wage of \$3.02 for "General Workers 'C' Class", without any description of their jobs. The Committee had also noted that the 1982 Order fixed, for 1983, minimum hourly rates for four distinct categories of workers employed in plantations and estates: "Men, 'A' Class", "Men, 'B' Class", "Women, 'A' Class" and "Women, 'B' Class". These differences were faithfully reflected in the increased rates set for 1984 and 1985 by the above-mentioned agreement which distinguished four categories of sugar workers (without mention of sex) over 18 years of age by reference not to the work actually performed when employed on time work but, in the case of the three higher-paid categories, by reference to tasks they are required to perform when employed on piece-rates. The Committee had further noted that, for the years between 1984 and 1991, the wage rates continued to distinguish between "General Worker 'A' Class", "General Worker 'C' Class", "Artisans 'A' Class" and "Artisans 'B' Class". In addition, rates continued to be set for four categories of sugar workers over 18 years of age, without explicit descriptions of the corresponding jobs.

The Committee had requested the Government to provide full information on the numbers of men and women employed in the various wage categories and to furnish any job descriptions adopted for those wage categories which did not indicate the jobs actually performed. It had also requested the Government to

supply information on the measures take, either alone or in cooperation with the social partners, to ensure the application of the principle of equal remuneration for work of equal value to men and women in the sugar industry and on the methods used to evaluate and classify jobs in the industry.

In its latest report, the Government states that it is not the practice to use gender as a basis for determining rates of remuneration in the country; and that jobs are analysed and rates of pay are determined on the basis of such criteria as the time spent on the job, the skills and qualifications required and job evaluation with the guidance of the ILO Standard Occupational Classification and the Barbados Standard Occupational Classification. The Government adds that the difference in pay between men and women in the sugar industry is based only on nomenclature and that, at the request of the Government, the parties to the 1983 collective agreement changed the relevant titles and reflected this change by stating in the agreement that "where men and women perform identical duties, they will receive equal pay". The Government also states that the question of vague job descriptions for general workers is expected to be addressed shortly when new management takes over the sugar industry.

The Committee takes due note of these indications. However, as the Committee has stated previously, the sex-differentiated job categories and wage rates established in the 1982 Order have evidently been maintained in the collective agreements concluded since that time, despite the removal of the references to sex in the classification of posts. Information which would suggest otherwise has not been made available. The repeated requests of the Committee have not elicited information either on the respective numbers of men and women occupying the relevant posts or on any measures taken to evaluate and re-classify those jobs, using non-discriminatory criteria. Moreover, the principle of equal pay proclaimed in the 1984-85 agreement for the sugar industry, merely covers equal remuneration for persons performing "equal work" (which is apparently tantamount to having identical duties), but falls short of the principle of the Convention, under which men and women shall be paid equal remuneration for work of equal value, implying a comparative evaluation of work of a different nature.

The Committee has also noted that no information has been provided on the other matters raised by the Committee in its previous observations, i.e. the progress of the Employment and Related Provisions Bill, which was to embody the principle of equal remuneration in terms similar to those of the Convention and measures taken to apply the Convention in practice, and in particular to monitor its implementation.

In these circumstances, the Committee again expresses the hope that the Government will take measures, in cooperation with the social partners, to ensure that the principle of the Convention is applied in full. In this regard, it urges the Government to consider the possibility of embodying the principle of equal remuneration for work of equal value in legislation

applicable to all workers. It also hopes that strenuous efforts will be made to respond to the Committee's concerns in regard to the application of the principle in the sugar industry. The Committee again requests the Government to supply, in its next report, full and detailed information on any job descriptions adopted for those wage categories which do not indicate the work actually performed and on the methods used to evaluate and classify posts in this industry. Having taken account of the evident difficulties being faced in the application of the Convention, the Committee recalls its 1990 general observation, where it invited governments to consider the possibility of requesting advice and technical cooperation from the International Labour Office.

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

Canada (ratification: 1972)

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

1. The Committee notes with interest the 1993 amendments to the Pay Equity Act of Ontario which establish two new methods of achieving pay equity: proportional value comparisons and proxy comparisons. Both new methods, like the job-to-job comparison method already in use, require a gender neutral comparison of skill, effort, responsibility and working conditions between male and female job classes. Proportional value comparisons are to be used by both public and private employers in situations where there is an insufficient number of equal or comparably valued male job classes to make direct comparisons. In such cases employers must determine the relationship between the value of the work performed and the pay received by male job classes and apply the same principles and practices to paying female job classes. Proxy comparisons are to be used only in the public sector where there are insufficient male classes to use the other methods. The proxy method requires employers to make comparisons to jobs outside the employers' establishment.

The Committee further notes that employers are required to pay any necessary equity adjustments at a rate of 1 per cent of payroll per year until pay equity is achieved for the 420,000 workers in female job classes who are expected to benefit from the implementation of these amendments. The Committee asks the Government to provide information, including statistical data, on the practical implementation of these amendments.

2. The Committee is addressing a direct request to the Government on other points.

Dominican Republic (ratification: 1953)

1. Referring to its previous observation, the Committee notes with satisfaction the information contained in the Government's report concerning the new Labour Code of 29 May 1992 (prepared with ILO

assistance in certain domains), in particular that, by virtue of section 281, the provisions of the Code apply to all agricultural enterprises, thus answering the concerns previously expressed by the Committee as to the application of the principle of the Convention to employees in certain small agricultural undertakings.

The Committee notes, however, that section 194 of the new Code states that "There shall be equal pay for equal work carried out in conditions of identical skill, efficiency and length of service, no matter who carries out the work", thus continuing to give only partial effect to Article 2 of the Convention, which requires a ratifying State to apply to all workers the principle of equal remuneration for men and women workers for work of equal value. The Committee would refer the Government to paragraphs 19 to 23 and 44 to 65 of its 1986 General Survey on Equal Remuneration, where it explains that the ILO instrument goes beyond a reference to the same or similar work, in choosing the "value" of the work as the point of comparison. Recalling that the Committee had suggested amendment of the previous Code so as to introduce the concept of "work of equal value", and also noting that the Fundamental Principles set out in the new Labour Code specifically prohibit discrimination in employment on the ground of sex and state that women workers shall have the same rights and obligations as male workers, the Committee would ask the Government to indicate, in its next report, how the principle of the Convention is implemented with regard to work that, though different in nature, is of the same value by providing, for instance, copies of court decisions concerning the interpretation of section 194 and the Fundamental Principles of the new Labour Code.

2. Article 3. The Committee notes from the Government's report that, as already indicated in earlier reports, it has contacted the Inter-American Centre for Labour Administration (CIAT) requesting technical assistance in updating the National Dictionary of Occupations for use in job descriptions and objective job evaluations. The Committee welcomes this initiative and asks the Government to keep it informed of progress in this technical assistance provided by the CIAT, which should enable better application of this Article in practice.

3. The Committee is addressing a direct request to the Government on certain other points.

Finland (ratification: 1963)

The Committee notes the detailed information provided by the Government in its report as well as the comments from the Confederation of Finnish Industry (TT) and the Employers' Confederation of Service Industries (LTK) on the methodology of studies into pay differentials, and the comments of the Central Organization of Finnish Trade Unions (SAK), the Confederation of Technical Employee Organizations in Finland (STTK) and the Confederation of Unions for Academic Professionals (AKAVA) calling for action to be taken on the great amount of data and studies showing unequal pay between men and women workers.

Article 2 of the Convention

1. The Committee notes from the statistical table in the Governments' report that despite the impact of the equality allowance in slightly reducing sex-based wage differentials, the trend towards narrowing this gap slowed down in the late 1980s. The greatest impact of the equality allowance was in the local government sector, where for full-time personnel in 1992 women's average monthly earnings were 76 per cent of men's. Noting that for civil servants in 1992 women's total average earnings were 79 per cent of men's, the Committee would be grateful to receive more statistical information, if possible, showing progress towards the reduction of sex-based wage gaps by sector with special emphasis on female-dominated occupations and low-paid occupations in relation to male-dominated occupations.

Article 3

2. The Committee notes with interest the information on the outcome of the study of the working group on job evaluation established by the central market organizations in 1990. The working group drew up a series of job requirements corresponding to the 1986 General Survey on Equal Remuneration and proposed measures to introduce job evaluation systems in various spheres of working life, such as sector-specific pay provisions, job evaluation systems for each contract sector, the use of job descriptions as a basis for job evaluation. The Working group stressed cooperation between the labour market parties and research promoting analytical job evaluation.

The working group then commissioned a pilot study aimed at testing its job requirement framework, which completed its work in 1993. The results showed that the chosen job evaluation factors could be applied to different sectors, that the jobs of women and men were equally demanding in both the public and the private sectors, that job descriptions were important and that job evaluation was a suitable tool for promoting equal pay between the sexes. As the Government reports that the pilot study is to continue with cross-sector comparisons, the Committee would like to be kept informed of its further findings and would like to receive a copy of its final report, which was expected to be completed in autumn 1993.

3. The Committee notes the information provided regarding the ongoing re-evaluation of the state pay system, according to which pay discrimination seems to be the lowest in the public sector and pay differentials are larger when statistics use average earnings rather than the various pay components. It also notes the principles on pay formulation contained in the 1992 State Employer's Salary and Wage Policy Programme, appended to the report, which aim at linking factors such as the demand for a job, personal work performance and operative results in setting fair and flexible pay levels.

The Committee would like to receive information on the practical application of this Programme and indications as to when the re-evaluation of the State pay system is completed.

4. The Committee is addressing a direct request to the Government on certain other points.

India (ratification: 1959)

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

For a number of years, the Committee has drawn attention to the need to improve the enforcement of the provisions of the Equal Remuneration Act, 1976, as there appeared to be numerous cases in which women received lower wages than men for equal work or for work of equal value. It had also observed that the scope of the principle of equal remuneration under the Act was more limited than the principle of the Convention, as it covered only men and women performing the same work or work of a similar nature for the same employer.

In its observation of 1991, the Committee had noted with interest certain amendments to the Equal Remuneration Act designed to increase its effectiveness. It had also noted the measures taken to strengthen the supervision of the legislation and the substantial increase in the number of prosecutions launched under the Act. In addition, it had noted the Government's statement that the introduction of the concept of equal pay for work of equal value may not be possible at the present stage of development and that priority should be given instead to the full implementation of the provisions of the Equal Remuneration Act. The Committee had also referred to a communication received from the Centre of Indian Trade Unions (CITU) stating that there remained many shortcomings in the implementation of the Equal Remuneration Act. In particular, the CITU had stated that in certain industries, employers used a piece-rate system to avoid paying equal wages for women or they claimed that the work performed by women was of a different nature to that performed by men, whereas the nature of the work was the same or similar, and this explained why women workers in beedi, construction, garment, agriculture and other industries continued to receive lower wages than male workers. As concerns these claims, the Committee had referred to a number of studies undertaken by the Labour Bureau (Ministry of Labour, Government of India) on the socio-economic conditions of women workers in various industries, which confirmed that the provisions of the Equal Remuneration Act were circumvented frequently by employers. Accordingly, the Committee expressed the hope that the Government would draw the attention of the competent state authorities to such situations as those revealed in the studies, in order to correct them in accordance with the requirements of the national legislation and of the Convention.

The Committee has noted with interest that the sex-differentiated minimum wage rates fixed for agricultural workers in Kerala will be amended on the occasion of the next minimum wage revision, and that a copy of the notification will be forwarded when it is available. The Committee has noted the explanations provided by the Government concerning the fixing of minimum wage rates for time-work or piece-work and the procedures observed to enforce the provisions of the Minimum Wages Act,

1948, whenever cases of wage discrimination arise. It requests the Government to provide, in its next report, detailed information on the action taken to rectify the instances of wage discrimination identified in the studies undertaken by the Labour Bureau. In relation to the fixing of minimum wage rates for piece-work, the Committee requests the Government to indicate the proportion of men and women in particular industries such as beedi, construction, garment and agriculture, or in occupations within those industries, for whom piece-rate wages are fixed and to provide information separately for men and for women on the average wages received by those piece-rate workers as compared to time-rate workers.

As concerns measures to better publicize the provisions of the Equal Remuneration Act, the Committee has noted with interest that the tripartite Central Board for Workers' Education trained 91,920 women workers during the period 1990-91 and 50,604 during 1991; that legal literacy manuals have been developed by the Department of Women and Child Development; and that the Ministry of Labour introduced two new projects aimed at organizing women in construction industries to upgrade their skills, improve their conditions of work, give them functional literacy and to provide them with support services. In addition, schemes for providing child-care have been drawn up and included under the 8th Five Year Plan (1992-97) with a view to promoting the employment and improving the working conditions of women in the organized sector.

In respect of measures to strengthen the enforcement machinery, the Committee has noted with interest that a pilot scheme of providing financial assistance to state governments for enforcing legislation relating to women and children is to be extended, under the 8th Five Year Plan, to other states in need of such assistance. It has also noted, in this regard, that a process of active consultation has been initiated with workers' and employers' organizations at the central level to secure their support in improving implementation of the legislation. The Committee requests the Government to supply information on the particular significance of these measures in relation to the implementation of the Convention.

Noting that a number of state governments have extended recognition to welfare institutions or organizations for the purpose of filing complaints under the Equal Remuneration Act, the Committee requests the Government to indicate in its future reports, any further developments in this regard together with information on the specific role taken by these organizations to promote a better observance of the legislation.

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

Jamaica (ratification: 1975)

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

1. In its 1991 observation, the Committee had noted that the Minimum Wage (Printing Trade) Order, 1973, which had provided for sex-differentiated job categories and pay scales had been revoked by the Minimum Wage (Printing Trade) Order, 1989, which had set a single rate of pay for an unskilled worker. However, in other respects the Order had simply removed explicit reference to the sex of the worker from various other categories, while at the same time maintaining both the former definitions of those categories and differentials in the respective increased minimum rates which appeared to correspond to those laid down in the 1973 Order. In the absence of any indication that measures were taken either to evaluate and compare jobs in categories which were formerly sex-denominated by applying non-discriminatory criteria or to ensure that those jobs were open to both sexes, the Committee had been forced to conclude that the wage distinctions based on sex in the 1973 Order had been maintained in the 1989 Order, despite the introduction of neutral language. The Committee had requested the Government to supply detailed information on the measures taken, either alone or in cooperation with the social partners, to ensure the application of the principle of the Convention in the printing trade as well as in other industries, such as the garment-making trade, where the Committee had previously noted that distinctions based on sex had apparently played a role in establishing differential minimum wage rates.

At the Conference Committee in 1991, the representative of the Government stated that the tripartite Minimum Wage Advisory Commission would review the Minimum Wage Orders for the printing and garment industries before the end of 1991 and, in doing so, would take account of the Committee's comments regarding the application of the Convention. He assured the Committee that a comprehensive report, as well as copies of the new Orders, would be furnished as soon as this work had been completed.

The Committee notes that no further reference is made in the report of the Government to the review of the above-mentioned Orders. The Committee trusts that the Government will indicate, in the near future, that it has taken the necessary action to ensure conformity with the provisions of the Convention.

2. In its previous direct request, the Committee had pointed out that section 2 of the Employment (Equal Pay for Men and Women) Act, 1975, only refers to "similar" or "substantially similar" job requirements, whereas the Convention provides for equal remuneration for work of "equal value", even of a different nature. The Committee notes that the Government has provided no information on the measures taken or envisaged to re-examine national legislation in the light of the requirements of the Convention. The Committee trusts that full information will be provided in this regard in the next report.

3. In its previous comments, the Committee had noted that minimum wage orders generally exclude any ancillary benefits from their scope, while the Convention, as well as the above-mentioned Act include in their scope any additional emolument whatsoever payable in cash or in kind to the worker in respect of work or

services performed. The Committee had therefore requested the Government to indicate how, in practice, equal remuneration is implemented with respect to benefits such as housing, marriage or family allowances, in both the private and public sectors. The Committee notes the statement of the Government in its report that there is equal remuneration in both the private and public sectors with respect to the benefits paid or granted in addition to salary.

The Committee, however, notes from the Government's report that while the payment of marriage allowances was discontinued during the 1970s, teachers who were receiving the allowance prior to its discontinuation have continued to receive it. Male teachers who fall into this category receive an allowance of \$2,400 per annum.

The Committee points out that the continuing payment of marriage allowances to, it would appear, only male teachers who had entitlement to them prior to their discontinuation is contrary to the provisions of the Convention. It therefore requests the Government to ensure that those female teachers who were also employed prior to the date of discontinuance of the allowance but who were denied it on account of their sex are also granted a marriage allowance.

More generally, the Committee requests the Government to take the necessary steps to ensure that minimum wage orders and any regulations fixing wages for the public sector cover not only cash minimum wages but also any additional emoluments payable in cash or in kind.

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

Japan (ratification: 1967)

With reference to its previous comments, the Committee notes the Government's report and the information submitted to the Conference Committee in 1993.

1. In its observations of 1992 and 1993, the Committee summarized the dialogue it has had with the Government over a number of years concerning the application of the principle of equal remuneration for work of equal value. Essentially, the Committee has sought information on the effect given to this principle by the implementation of section 4 of the Labour Standards Act, 1947, which prohibits employers from discriminating between women and men "concerning wages by reason of the worker being a woman". The Committee has noted that this stipulation (violations of which may be met with penal sanctions) has been implemented through periodic inspections by labour inspectors and the provision of guidance to employers. In order to ascertain whether the national legislation is interpreted broadly enough to comply with the principle of the Convention, the Committee has requested the Government to indicate the measures taken to evaluate and compare the value of the different work performed by men and women on the basis of objective criteria.

2. While no information was provided on this matter, the Government had furnished the results of wage surveys undertaken by the Ministry of Labour. On the basis of one survey of 1988, the Committee had noted that, while there had been a narrowing of the differential in the starting salaries of male and female graduates of high schools and universities, women's average monthly cash earnings were about 60.5 per cent of those of men. From information supplied in the reports of the Government, the Committee had observed that two primary reasons appeared to account for the persistence of an important wage differential in average earnings and for the widening of the wage differential in relation to the age of women workers: the first being the seniority wage system, under which the employee's pay rises with the length of service in the same enterprise; and secondly, the fact that women are concentrated in lower paid jobs and are not accorded equal employment opportunities.

3. The Committee had recalled an earlier statement of the Government indicating that a change from a seniority wage system to one based on job content would promote the principle of equal remuneration for men and women by reducing the difference in earnings due to the shorter average length of women's service. It had accordingly requested information on the extent to which an objective appraisal of jobs - within the meaning of Article 3 of the Convention - might be introduced in the context of the present system, so that the value of the different jobs undertaken by men and by women might be compared in terms of their actual content or requirements on the basis of non-discriminatory criteria. The Committee noted that, according to the Government, there was no national consensus that the jobs performed mainly by women are given an unreasonably lower value in terms of their content than jobs performed mainly by men, on account of subjective value judgements based on traditional notions concerning the respective qualities of men and women. The Committee accordingly requested detailed information on the minimum or basic wage rates and the average actual earnings of men and women employed in different sectors or occupations (including those where one sex predominates) broken down by seniority and skill level, as well as information on the percentage of women and men employed in these different sectors or occupations. In its present report, the Government states that statistics comparing the average actual earnings of men and women in different occupations, broken down by seniority and skill level, are not available.

4. Following the enactment of the Equal Employment Opportunity Act, 1985, the Government reported on its efforts to promote equal employment opportunities for women, stating that the previous lack of such equality was a factor which accounted for the wage differential between men and women. The Committee noted that measures had been taken to ensure equality of access of men and women to either of the two career tracks distinguished in occupational classifications (referred to as "main or key work" and "auxiliary work"). The Committee was unable to ascertain progress on this matter due to the lack of detailed information on the enterprises or economic sectors where different wage scales were set for these categories or on the percentages of men and women in each category. The Committee did, however, cite information provided by the Government concerning a

survey which revealed that only 23 per cent of enterprises stated that they assigned women to all jobs while the others stated that they assign them to jobs "where they can display their characteristics and sensitivity as females", or where "they can make the best use of their special skills" or to "subsidiary jobs" only.

5. During the discussion of this matter in the 1993 Conference Committee, a Government representative stated that the wage differential between the sexes was a result of men and women working in different sectors, as well as differences in the number of years of service under a seniority-based wage system, rather than the insufficient application of the principle of equal remuneration for work of equal value. She also stated that, in order to solve the problem of the segregation of men and women into different areas of work, the Government was making efforts to promote the enforcement of the Equal Employment Opportunity Act, 1985. Moreover, as differences in the number of years of service of men and women were caused partly by the difficulty in balancing professional and family responsibilities, the Government had enacted the Child Care Leave Act, 1992. In its report, the Government states that, although the Equal Employment Opportunity Act has no direct relevance to this Convention (because it does not prescribe equal pay), guidelines concerning recruitment, hiring, job assignment and promotion have been formulated under section 33 of the Act, which empower the Minister of Labour to provide advice, guidance or recommendations to an employer. The Government also indicates that the tripartite Women's and Young Workers' Problems Council is examining the ways and means of ensuring a full understanding of and compliance with the Act.

6. The Committee notes the Government's increased efforts to promote equality of opportunity and treatment between men and women as a means of furthering the application of this Convention. It trusts that the Government will describe, in more detail, the particular measures taken in this regard in its future reports. The segregation of men and women into different sectors, occupations and specific jobs within enterprises has resulted in all countries from strongly entrenched historical and social attitudes. The particular issue of segregation would not, however, pose a problem under the Convention were it not for the fact that the jobs in which women are predominantly employed are almost invariably paid less than those held primarily by men. It is with a view to reducing the difference in wages resulting from traditional stereotypes with regard to the value of "women's" work that the Committee has emphasized the importance of adopting and applying in a uniform way, non-discriminatory criteria to evaluate the different work of men and women. Accordingly, the Committee hopes that the Government will consider, in consultation with the social partners, how to evaluate and compare the different work of men and women on the basis of objective criteria. The Committee also recalls its 1990 General Observation where it observed that governments experienced difficulties in applying the Convention when they lacked knowledge of the true situation, due to the unavailability or inadequacy of data and research. Accordingly, the Committee urges the Government to take the necessary steps to compile and supply the necessary information on earnings and related factors

in order to document fully the nature and extent of existing inequalities so that appropriate remedies can be devised.

Morocco (ratification: 1979)

With reference to its previous observation, the Committee notes the information supplied by the Government in its report.

With regard to the public sector, the Committee notes that, according to the report, there is no discrimination in relation to wages between men and women workers in the public service, local communities and public establishments. It also notes, from the statistics supplied by the Government, that the percentage of women in middle- and high-level managerial posts in the public administration is very low in relation to the number of men (85 women branch chiefs compared with 1,754 men, four women directors compared with 144 men, and no women directors-general compared with 26 men). It also notes the monthly wage rates for managerial staff which came into force in the public sector in January 1991. Further it notes the lack of information on wage scales for non-managerial categories of officials or on the distribution of men and women employed at the various levels, as a result of which the Committee is not in a position to assess the extent, if any, to which the application of the Convention has reduced wage disparities based on sex.

The Committee would therefore be grateful if the Government would supply detailed information in its next report on the measures which have been taken and the results achieved in increasing the representation of women in managerial jobs and posts of responsibility and in eliminating all wage disparities based on sex in the public sector. It draws the Government's attention to the importance of introducing job classification systems which are based on objective criteria in order to identify and eliminate wage discrimination based on sex. It requests the Government to indicate the methods which are used to undertake an objective appraisal of jobs on the basis of the work to be performed, in accordance with Article 3 of the Convention.

With regard to the private sector, the Committee notes from the report that the survey of wages and working hours is still being carried out and that its results will be forwarded with future reports. The Committee once again hopes that the Government will supply the results of the above survey, together with recent statistics on minimum wages and average earnings for men and women, if possible by occupation, branch of the economy, seniority and skills level, with an indication of the corresponding percentage of women at the various levels.

Nepal (ratification: 1976)

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

The Committee notes the provisions of the new Constitution of the Kingdom of Nepal, 1990, Article 11(5) of which proscribes

discrimination between men and women in regard to remuneration "for the same work". Referring to its 1990 General Observation, where the Committee emphasized the importance of ensuring the legislative application of the Convention, the Committee hopes that the Government will take all necessary measures to ensure that discrimination in remuneration is prohibited also for work of equal value. As new labour legislation will, according to the previous Government's report, be submitted to the next session of Parliament, the Committee urges the Government to take this opportunity to ensure legislative conformity with the Convention. Noting moreover with interest that the Government has requested advice and technical cooperation on job evaluation and on other matters relevant to the effective implementation of the Convention, the Committee suggests that the Office also be afforded an opportunity to comment on the draft legislation before it has been finalized, from the point of view of applying the provisions of the Convention. The Committee hopes that the Government will provide information on any measures taken as a result of Office assistance to further the application of the Convention.

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

Netherlands (ratification: 1971)

With reference to its previous observation, the Committee notes the Government's report.

1. Regarding the problem of applying the equal pay principle in flexible labour relations, the Committee had requested the Government to provide information on the manner in which legislation is interpreted so as to apply to workers in flexible employment relationships, such as flexible hours of work. It notes the information in the Government's report on the situation of workers with flexible employment relationships and its statements according to which (1) no cases of unequal remuneration related to flexible labour relationships have been submitted to a committee or court; (2) flexible employment relations in the central Government and the other levels of public employment are relatively rare; and (3) these relationships, when they exist, are subject to the relevant public service regulations. Noting the Government's statement that a survey is currently under way into the effectiveness of equal treatment legislation, the Committee asks the Government to indicate in its next report any cases of workers with flexible employment relationships suffering unequal pay. It would also appreciate receiving a copy of the findings of the said survey.

2. The Committee had previously commented on the possibility of extending the comparison between wages of women in undertakings where there was no possibility for comparison between women and men doing work of equal value, with wages of men in similar undertakings. The Committee notes from the Government's report that the provision in the Equal Treatment Act, 1989, prescribing equal pay for men and women doing almost the same work, allows for such a comparison and that the

Supreme Court, in a 1987 decision, had relied on this. It also notes with interest the Government's statement that its policy is to reduce situations where there are no possibilities for comparison by promoting the removal of barriers between male and female occupations and posts, as well as its investigations into whether the job ranking systems used in hospitals and the commercial services sector are free from sex discrimination elements (which showed that features of male posts are more and better represented than those of women's posts and that women are rarely involved in the introduction and implementation of job ranking). It also notes that, according to the Government, the necessity of promoting comparisons between similar undertakings does not occur in the central Government as the same job ranking system applies across the board there.

The Committee asks the Government to continue to provide information on how the possibility of promoting equal remuneration by comparing men's and women's wages in similar undertakings is ensured under the present legislation (for example, in decisions of the Commission for Equal Treatment of Men and Women in Employment or of the courts) and on any steps taken to encourage the use of the said comparisons to promote equal remuneration between the sexes. It would also like to receive information on the outcome of the joint follow-up study for eliminating possible elements of sexual discrimination in hospitals, which the parties to the collective labour agreements in this sector intend to carry out.

3. The Committee is addressing a direct request to the Government on certain other points.

New Zealand (ratification: 1983)

The Committee notes the information contained in the Government's report and the attached documentation, in reply to its previous observation.

1. The Committee had requested the Government to indicate the measures being taken to ensure the implementation of the Equal Pay Act, 1972, and of the Human Rights Commission Act, 1977, more particularly in respect of individual employment contracts concluded pursuant to the Employment Contracts Act, 1991. In its report, the Government discusses the processes available to individuals, employed by the same employer under individual or collective employment contracts, to redress claims of pay discrimination. In addition, the report outlines the role of the Employment Tribunal established under the Employment Contracts Act to mediate or adjudicate claims received, or to examine, on its own motion, the provisions of an actual or proposed employment contract or agreement to determine its compliance with the Equal Pay Act. The Committee also notes the various measures taken to inform employees of their rights. Noting that the Labour Inspectorate received only one complaint under the Equal Pay Act during the years 1990 to 1993 inclusive, the Committee requests the Government to provide, in its next report, information on the extent to which individuals have sought to avail themselves of other processes to redress their equal pay claims and on any relevant mediation assistance or decision of the Employment Tribunal.

2. The Committee had examined a comment of the New Zealand Council of Trade Unions concerning the limited scope in which comparisons could be made for the purpose of determining equal pay. Information had accordingly been requested on the measures taken or contemplated to apply the principle of equal pay to female employees whose possibilities for comparison were insufficient in private sector workplaces. In this respect, the Government refers to its publication and wide dissemination of the manual "Equity at Work: An Approach to Gender Neutral Job Evaluation" which was noted with interest in the Committee's 1992 observation. The Committee also notes with interest the activities of the Equal Employment Opportunities Trust to promote and publicize the benefits of equal employment opportunities, as well as those funded by the Equal Employment Opportunities Contestable Fund to help overcome those barriers to wage equity that result from men's and women's different experiences in education, training and the assumption of family responsibilities. The Committee would be grateful if the Government would continue to provide information on the measures taken to foster employment equity, including information both on the extent to which gender neutral job evaluation has been applied in practice and on any resulting pay adjustments made for women employed in predominantly female workplaces.

3. The Government also provides information concerning a survey to be undertaken on bargaining structures, process and outcomes pursuant to the 1991 Employment Contracts Act. The Committee hopes that the Government will provide information about this research, particularly in relation to any effects observed on women's employment participation and remuneration levels relative to those of men since the introduction of a decentralized wage system.

Norway (ratification: 1959)

The Committee notes with interest the detailed information provided in the Government's report.

1. It notes, in particular, the statement according to which a report on a new equal pay strategy had been submitted to the Storting by the Government which would enable better fulfilment of the aims of the Convention. This new strategy stresses occupational segregation as the major factor in explaining the sex-based wage differentials and suggests a more direct and comprehensive approach to equal pay, consisting of various proposals for amendment of the present legislation, such as:

- an amendment of the Equal Pay Act in order to clarify the concept of "work of equal value" in its section 5 by setting criteria for work value assessment, thus emphasizing objective values such as the skill, the effort and the responsibility required for the performance of a specific job and the conditions under which the job is performed;
- an amendment of section 14 of the Act prescribing the conditions for bringing a case before the Labour Disputes Court (which is at present reserved for labour market organizations) so as either to grant the Equal Status Ombud authority to bring a case before the Labour Disputes Court or to give the Ombud a mandate to require a

party to use that possibility, or to allow the Appeals Board to take decisions on the validity of collective agreements; and

- an amendment of the Act in order to reverse the burden of proof in cases of complaints under sections 4 and 5.

Noting that bills will be before the Storting on these amendments in Autumn 1994, the Committee asks the Government to keep it informed of the outcome of the debates on these proposed amendments. It hopes to receive a copy of the amending Act when passed, as well as to be kept informed on any other measures of implementation envisaged.

2. The Committee also notes the proposal of the Equal Status Ombud to amend the Equal Pay Act so as to require stronger proof for accepting "market value" as a criterion for wage determination. According to decisions from the Appeals Board, market value makes it possible for employers to give a higher salary to an employee as remuneration for skills that are not specifically required for the job, and the Committee notes from several decisions summarized in the Government's report that challenges to the payment of higher salaries to men have been lost on this ground. The Committee would like to be kept informed of any developments in this regard, particularly in view of the proposal to reverse the burden of proof in equal pay cases.

3. The Committee notes the programme on the development of pay and working conditions in female-dominated jobs which highlights the structural and individual barriers to equal pay. It also notes the steps taken within the Nordic framework and the public information booklet describing the project "Equal Pay for Women and Men in the Nordic Countries" which gives information on recent debates on equal pay subjects. Noting that the project will conclude in 1994 with a report outlining equal pay strategies and measures, the Committee would be grateful to receive a copy of the report.

4. The Committee is addressing a direct request to the Government on certain other points.

Paraguay (ratification: 1964)

The Committee notes Act No. 213 of June 1993, which issues the new Labour Code. The Committee notes with satisfaction that this text amends section 230 of the former Code, which had been the subject of its comments, and that it provides in section 229 that equality of remuneration rates must be without distinction on the basis of sex for "work of equal value", whether or not the work is of the same nature. The Committee notes that for the purposes of this provision, remuneration does not include the components of the wage which is related to seniority and merit. The Committee requests the Government to indicate the manner in which the principle of equality of remuneration for men and women workers is also applied to the components of remuneration which relate to seniority and merit.

The Committee is raising other points in a direct request.

Philippines (ratification: 1953)

Further to its previous comments, the Committee notes with interest that in implementing the Philippine Development Plan for Women (1989-1992), the Department of Labour and Employment has prioritized the promotion of equal opportunity in employment and, to this end, has undertaken a number of activities, including preparing a monograph outlining the practical ways of promoting equality in the workplace and researching to what extent wage disparities between men and women are based on sex. The Committee requests the Government to continue to provide information on the extent to which these various activities further the application of the Convention.

The Committee has also noted that a number of legislative bills have been filed in the Congress to complement and strengthen existing measures to promote equal opportunity in employment. The Committee requests the Government to furnish the texts of any legislation adopted which is relevant to the application of the Convention.

Saudi Arabia (ratification: 1978)

Further to the comments which it has been making for many years, the Committee notes the Government's statement in its report that no legal or other measures have been taken relating to the application of the Convention.

1. The Committee recalls that there is no legislative provision which prohibits wage discrimination on the basis of sex or which establishes equal remuneration for men and women workers for work of equal value. Nor does there exist a system of remuneration which is established or recognized by the national legislation, or by collective agreements. The Committee notes that the Government once again repeats its previous statements that the Convention is applied in the private sector by section 8 of the Labour Code (which provides that the contractor is obliged to provide workers in his service with the same rights and advantages, including wages, as those given by the initial employer to his workers), through observance of the legislative principle of equality and equity between workers for equivalent work, which is an inviolable right by virtue of the supremacy of the Shariah (which constitutes the fundamental law) which preaches equality between individuals without distinction based on, among others, sex, and whose principles constitute legislative injunctions which attenuate any shortcomings in the Labour Code. The Government refers once again to the decision of the Higher Commission for the Settlement of Disputes, according to which a worker can claim equal treatment as compared to colleagues only when circumstances and qualifications are equal.

2. The Committee notes that the Government considers that the wording of Article 2 of the Convention is sufficiently flexible to allow it to select the means which it wishes to use to give effect to the Convention and that the provisions of the legislation which are in force are sufficient in this respect. It also considers that equal remuneration is fully applied without difficulties in practice on the basis of equal qualifications, experience and conditions of work.

However, the Government does not supply information (such as wage scales, statistics on minimum and average earnings, the distribution of men and women in the workforce, texts of collective agreements) enabling the Committee to evaluate how this principle is applied in practice.

In its 1986 General Survey on Equal Remuneration, the Committee emphasized in paragraph 253 that it is "hard to accept statements suggesting that the application of the Convention has not given rise to difficulties or that full effect is given to the Convention, without further details being provided. By its nature, by the way in which it develops, and as a result of the equivocal character of discrimination with regard to remuneration, the application of the principle will necessarily unearth difficulties". Furthermore, the Committee draws the Government's attention to the terms of Article 2, paragraph 1, of the Convention which refer expressly to "work of equal value", the concepts of which were developed by the Committee in paragraphs 44 to 78 of its 1986 General Survey. As regards the choice of the means adopted to apply the principle contained in the Convention, the Committee notes that none of these means has been used by the Government to give full effect to the Convention. Furthermore, it considers that the Government's interpretation by analogy of the existing legal provisions does not suffice to guarantee that equal remuneration for men and women workers for work of equal value is respected in all sectors.

3. The Committee requests the Government to re-examine the situation in the light of the above comments and to take the necessary measures to give effect to the Convention, particularly in the private sector. This could be done, for example, by inserting in the Labour Code a specific clause requiring equal remuneration for men and women workers for work of equal value, or by a special decision to this effect by the Higher Commission for the Settlement of Disputes so as to impose expressly on employers in the private sector the obligation to apply the principle set out in the Convention. The Committee trusts that the Government will be in a position to indicate in its next report that progress has been made in this respect. The Committee reminds the Government that the Office is at its disposal for any technical assistance that might help overcome the difficulties in the application of the Convention.

4. The Committee is addressing a direct request to the Government on other points.

[The Government is asked to supply full particulars to the Conference at its 81st Session.]

Spain (ratification: 1967)

With reference to its previous direct requests, the Committee notes the detailed information and statistics supplied by the Government in its report. It also notes the comments on the application of the Convention in law and in practice sent by the General Union of Workers (UGT) and the Trade Union Federation of Workers' Commissions (CC.OO).

1. The Committee notes that both the UGT and the CC.OO raise the insufficiency of the current labour legislation in ensuring the principle of equal remuneration for work of equal value and the poor implementation of that principle in practice, particularly through indirect discrimination in private enterprises. The UGT points out that the Constitution and the Workers' Charter protect against discrimination on the basis of sex in general terms without specifying the concept of "work of equal value". It refers to cases of indirect or veiled wage discrimination that have gone to the courts over the issue of whether the work being done was "equal". It cites the February 1992 statistics of the National Institute of Statistics showing that women workers in higher qualification categories earn only 73.9 per cent of men's remuneration. The CC.OO calls for a clarification in the legislation of the concept "work of equal value" since factors typically linked to men, such as strength, are often given more value over factors like concentration and skill which in turn are associated with women. It also cites court cases which held that there has been indirect wage discrimination through the granting of various wage supplements mainly to men.

The Government states, in its report, that the Second Plan for Equal Opportunities for Women (1993-95) proposes an amendment to section 28 of the Workers' Charter so as to introduce expressly the concept of "work of equal value" into the national legislation. It points out at the same time that the Constitutional Court and European Community law had, in any case, given a sufficiently broad interpretation to that provision.

The Committee notes this development with interest. It asks the Government to inform it, in its next report, of progress towards introducing the concept of Article 2 of the Convention into the 1980 Workers' Charter, and to transmit a copy of the amendment once adopted.

2. The Committee is addressing a direct request to the Government on certain other points.

United Kingdom (ratification: 1971)

The Committee notes the information in the Government's report and its observations on the comments of the Trades Union Congress (TUC) dated 20 December 1991, 13 January 1993 and 24 December 1993 concerning the application of the Convention.

1. The Committee recalls that the TUC, in its earlier communication, raised points concerning the inadequacy of procedures in equal pay claims (the complexity and lack of clarity in the legislation which resulted in long delays in the determination of workers' rights; the fact that an employer's existing job evaluation study could act as a bar to an equal value pay claim; the impossibility of extending an equal pay decision awarded to an individual applicant to all employees in the same employment who do the same or broadly similar work). The TUC, in its subsequent communications, expressed concern that the Trade Union Reform and Employment Rights Bill (now enacted as the Trade Union Reform and Employment Rights Act, 1 July 1993), in abolishing wages councils, would remove this statutory protection (including enforcement by a

wages inspectorate) from a great many women workers and consequently women's remuneration as a proportion of that of men would decline. The TUC considered that the remaining right to bring an individual complaint to an Industrial Tribunal under the Equal Pay Act is an insufficient remedy because of the long delays in that procedure. The TUC pointed out that the abolition of the wages councils led it also to lodge a complaint in August 1993 to the Commission of the European Communities alleging that the removal of these mechanisms has led to the non-application of European Community law.

The Government responds, firstly, that it is concerned that there should be as little delay as possible in equal value cases, but that the law in this area is inherently complex and procedures take some time; it points out, however, that it is examining ways of reducing the time delays and will discuss procedural changes with the Equal Opportunities Commission shortly (some changes corresponding to recommendations made by the Commission to improve the equal pay laws are already under way, as explained below). Secondly, it rejects the TUC's claim that the abolition of the wages councils will hinder the Government's application of the principle of this Convention. The Government challenges the effectiveness of minimum wage fixing in this connection and the inference that employers will cut women's pay following abolition. It adds that women continue to be able to seek redress if they allege sex-based wage differences under the Equal Pay Act.

The Committee recalls that Article 2(2) of the Convention permits flexibility in the choice of methods for applying the principle of the Convention. It also recalls that, whatever the method chosen, its enforcement must have an impact. This was highlighted in paragraphs 102 to 131 and paragraphs 166 to 179 of the Committee's 1986 General Survey on Equal Remuneration, where it examined, respectively, the bodies to promote, enforce or supervise the principle of the Convention and the effectiveness of remedial action in ensuring its application. While aware that the impact of the abolition of the wages councils may not yet be felt, it draws the Government's attention to the importance of effective machinery to translate the principle into practice. Despite the Government's explanation of the current system, the Committee also must note the TUC's apprehensions for the implementation of the Convention in these circumstances.

It therefore asks the Government to supply information (including statistical data on actual wages paid to men and to women in the sectors previously covered by wages councils) showing the impact of the abolition of the previous system. It would also like to receive information on the numbers of equal pay claims brought since the change, the time taken to conclude them and indications of the awards made. In addition, the Committee asks the Government to inform it of the outcome of the TUC complaint to the Commission of the European Communities.

2. With reference to the Committee's previous comments on equal remuneration in the state pension and occupational pension schemes and harmonization of pensionable ages, the Government explains that Schedule 5 to the Social Security Act, 1989, has still not been brought into force following the 1990 ruling of the European Court of Justice (ECJ) in Barber v. Guardian Royal Exchange Group (which, by

establishing that occupational pensions are "pay", allowed the equal pay principle to override an apparent exception for retirement occupational pensions contained in a Directive). It adds that it is awaiting the outcome of a series of cases referred to the ECJ, including Coloroll Pension Trustees Ltd. v. Russell, Mingham & Others, expected later in 1994, which will throw further light on the retroactive scope of the Barber decision. The Committee notes the Government's statement that it is committed to equalizing the state pension age and that, following debate of a background paper currently circulating, it plans to make detailed proposals in this direction in the near future. The Committee notes these developments and asks the Government to inform it of the ECJ decision in Coloroll and its decision on whether or not to bring the Schedule into force.

3. Regarding the Government's response to the Equal Opportunities Commission's 1990 review of the Equal Pay Act containing various recommendations to improve the legislation, the Committee notes that it refers to several initiatives: the 1991 meeting of the Employment Department's Advisory Committee on Women's Employment (on which the TUC and the Confederation of British Industry as well as concerned bodies such as the Equal Opportunities Commission itself are represented) which discussed the review; its acceptance of a number of the specific recommendations (specialized training for members of industrial tribunals, their availability to hear cases, common law changes to one aspect of the "material factor" defence, swifter production of experts' reports, scrutiny of collective agreements by individuals now allowed by section 32 of the Trade Union Reform and Employment Rights Act); and its ongoing correspondence with the Equal Opportunities Commission on ways of streamlining the procedures of the Industrial Tribunals in equal pay cases. The Government points out that certain other recommendations "merit further consideration" and that others cannot be commented on since they are sub judice. The Committee notes, however, the Government's explanations that it cannot accept the recommendations concerning removing the bar to claims represented by an employers' job evaluation study, class actions, access to employers' premises, using the Employment Appeals Tribunal as a court of first instance and repeal of the two-year limit on back pay awards.

Recalling its comments under point 1 above on the importance of effective procedures in practice to implement the principle of the Convention, the Committee asks the Government to inform it of developments concerning its acceptance of the Commission's recommendations, in particular any progress made in discussions with the Commission following the Government's letter to that body of 19 July 1993 explaining its stance.

4. The Committee recalls that, in its previous direct request, it had noted that the Equal Opportunities Commission for Northern Ireland had included in its comments on the equal pay legislation a recommendation for equal pay comparisons with a "notional" or "hypothetical" man. The Committee had asked the Government to inform it of any measures taken in response to this. As the Government's report states that detailed consideration of the Northern Ireland Equal Opportunities Commission's recommendations are under way and that a response will be available in the near future, the Committee

asks the Government to inform it in its next report of developments in this area.

5. The Committee recalls that, in previous direct requests, it had asked for information on developments following the decision in Clark & Others v. Bexley Health Authority (where the employer successfully relied on the "material factor" defence that it had no choice in the matter of salary because it was obliged by an outside factor to pay staff certain authorized salaries and because of market forces), a decision which had been referred to the ECJ. It notes from the Government's report that the final decision in this case, now known as Enderby v. Frenchay Health Authority, was expected late in 1993. The Committee understands that the ECJ delivered its decision on 27 October 1993, holding, inter alia, that if there is a prima facie case of wage discrimination based on sex, the employer must show objective justification for the difference, that market forces may constitute an objectively justified ground and that it is for the national court to assess whether the statistics relied upon cover sufficient numbers, are not a short-term phenomenon and are generally of significance.

The Committee asks the Government to inform it of the impact of the Enderby decision on equal pay claims in the United Kingdom, supplying copies of any decisions at the national level which show application of the principle of equal pay contained in the Convention.

6. The Committee notes from the statistics supplied in the Government's report that, as of April 1993, women's average hourly earnings (excluding overtime) were 79.1 per cent of men's. This represents an increase over the 1970 figure of 63.1 per cent and the 1980 figure of 73.5 per cent. It also notes from documentation in the TUC's complaint to the ECJ that, according to the New Earnings Survey for 1992, women's average hourly earnings in manual trades were 71.5 per cent of men's, and in non-manual trades, 67.3 per cent of men's. Noting the Government's statement that the wages gap is steadily decreasing and that the remaining disparity exists for a variety of reasons such as the fact that many women work in lower-paying sectors, and have less work experience, seniority and training, the Committee would like to receive information on the measures taken or contemplated to study and remove the reasons underlying the continuing wage differences.

Zambia (ratification: 1972)

The Committee notes with interest that section 7(2) of the Employment Regulations, 1966, which relieved employers of the obligation of providing housing or paying a rent allowance in respect of married employees living with their husbands, has been amended by the Employment (Amendment) (No. 2) Regulations, 1990 (Statutory Instrument No. 61 of 1990). The amended section is drafted in a gender-neutral way, providing that in the case of a married couple in employment, only one spouse, as the couple may decide, shall be

provided with housing and an employer shall pay a rent allowance to the spouse who is not provided with housing.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Angola, Argentina, Australia, Austria, Belarus, Belgium, Benin, Bolivia, Brazil, Burkina Faso, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Finland, Gabon, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Israel, Jamaica, Jordan, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Malta, Mexico, Morocco, Mozambique, Netherlands, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saint Lucia, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Slovakia, Slovenia, Spain, Sudan, Swaziland, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Ukraine, United Kingdom, Uruguay, Venezuela, Yemen, Zaire, Zambia and Zimbabwe.

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

Convention No. 101: Holidays with Pay (Agriculture), 1952

Requests regarding certain points are being addressed directly to the following States: Ecuador, United Kingdom.

Convention No. 102: Social Security (Minimum Standards), 1952

Austria (ratification: 1969)

Article 24 of the Convention (in conjunction with Article 69(f)). With reference to its previous comments concerning the suspension of unemployment benefit, the Committee notes that the Government does not plan to amend section 11 of the Unemployment Insurance Act. The circular of the Federal Ministry of Labour and Social Affairs, No. 38-532/9-3/90, which specifies for the information of the Länder authorities that the notion of "misconduct" referred to in the above-mentioned section 11 should be understood to mean wilful misconduct on the part of the worker and that mere negligence is not in itself sufficient to justify a penalty, has the force of a directive and is therefore binding on the regional employment offices in their decisions. The Committee also notes the comments from the Federal Chamber of Workers and Employees to the effect that it has long been demanding the repeal of section 11 of the Unemployment

Insurance Act but that its demand cannot be met because of the current controversy over taxation of unemployment benefit.

The Committee would be grateful if the Government would continue to provide information on any developments in this area.

Bolivia (ratification: 1977)

In its previous comments the Committee drew the Government's attention to the fact that under section 51 of Presidential Decree No. 22-578 of 13 August 1990, the Bolivian social security system no longer provides for the payment of family benefit within the meaning of Article 42, Part VII (Family benefit) of the Convention. In its reply the Government indicates that the family allowance scheme set out in section 51 of Presidential Decree No. 22-578 will remain in force until the legal standard is amended as part of the reform which it plans to carry out. The Committee notes the Government's statement. It is none the less bound to reiterate the hope that in the context of the planned social security reform the Government will take the necessary measures to establish once again a family benefit scheme which is in keeping with the provisions of Part VII of this Convention. In this connection, the Committee again recalls that the draft Social Security Code, to which the Government has referred in its previous reports and which was prepared with technical assistance from the Office, provides in section 89 for the payment of such family benefits. The Committee hopes that the Government will provide detailed information on progress made in this respect.

[The Government is asked to report in detail for the period ending on 30 June 1994.]

Costa Rica (ratification: 1972)

1. The Committee notes the information supplied by the Government in its report and particularly the information supplied in answer to its previous comments concerning the representation made by a number of trade union organizations in Costa Rica in 1984 under article 24 of the ILO Constitution.

(a) In this connection, it notes with interest the information on the review of current amounts of pensions. It none the less asks the Government to provide the information required in the report form under Title VI, Article 65 of the Convention, so that it can assess the real impact of the pension increases in relation to changes in the general level of earnings or the cost of living index. It also asks the Government to provide information on any new increases in this area in each of its reports.

(b) With regard to Article 71 of the Convention, the Committee notes the agreements signed in 1985 and 1991 by the Costa Rican Social Security Fund and the Ministry of Industry, regulating the form of payment of state contributions. Furthermore, the Committee notes that the reform of the medical care financing system established in the agreement of 7 December 1988 is still under way in the framework of the Programme for State Reform and Reform of the Health Sector. The

Committee asks the Government to continue to provide information in this respect.

2. Part VI (Employment injury benefit), Articles 34, 36, and 38 of the Convention (also in conjunction with Article 69). In its previous comments the Committee asked the Government to take the necessary steps to amend sections 218, 228 to 232, and sections 237 to 239, and 243 of Act No. 6727 of 1982 so as to bring them fully into conformity with the above-mentioned provisions of the Convention with regard to: (a) the nature of medical care, which must correspond to the provisions of Article 34 of the Convention and be provided free of charge throughout the contingency (i.e. until recovery or the stabilization of the person's invalidity); (b) the grant of cash benefits also throughout the contingency in the event of minor or partial permanent disability and in the event of death. In both cases these benefits are paid under the above-mentioned sections of Act No. 6727 for a period of five to ten years depending on the circumstances, whereas the Convention stipulates that they must be provided to the disabled person for life and to dependents for as long as they fulfil the conditions prescribed under national law.

In its report the Government states that the negotiations between the National Insurance Institute and the Costa Rican Social Security Fund are still under way and that the proposed reforms of Act No. 6727 are still being examined. In this connection, the Government states that it is awaiting the results of the technical studies so that it can assess the implications, in actuarial terms, of harmonizing the above Act with the Convention. It also states that it will give priority to examining the possibility of requesting ILO technical assistance in this matter. The Committee notes this information. It hopes that the above-mentioned reforms will be adopted in the near future, possibly with ILO technical assistance, and that the national legislation will thus be fully in conformity with the Convention.

Furthermore, the Committee requests the Government to supply detailed information on the questions it is raising in a direct request.

Libyan Arab Jamahiriya (ratification: 1975)

In its previous report, the Government stated that the National Committee for the Examination of International Labour Conventions and Recommendations, established by Decision No. 72 of 1985, as amended, recommended the introduction of provisions concerning Part IV (Unemployment benefit) and Part VII (Family benefit) of the Convention into the national social security scheme, unless the decision was taken to denounce the above Parts of the Convention.

With regard to Part IV, the Government states that section 38 of the Social Security Act of 1980 and Decision No. 303 of 1988 of the People's General Committee to set forth the rules governing the cash benefits provided in the event of unemployment, cover the provisions of the Convention. Having examined the text of the above Decision, the Committee notes that the unemployment benefits which are provided in certain circumstances are payable by the employer and cannot therefore give effect to Part IV of the Convention, which has to be

implemented by a system of social security organized and financed in accordance with Articles 71 and 72 of the Convention. The Committee draws the Government's attention in particular to Article 71, paragraph 1, which provides that the cost of the benefits provided in compliance with this Convention and the cost of the administration of such benefits shall be borne collectively by way of insurance contributions or taxation or both.

With regard to Part VII, the Government refers to section 24 of the Social Security Act and certain provisions issued thereunder. The Committee recalls in this respect that section 24 of the Social Security Act only covers the provision of family allowances to pensioners whereas, according to Article 41 of the Convention, the persons protected shall comprise: (a) prescribed classes of employees, constituting not less than 50 per cent of all employees; or; (b) prescribed classes of all the economically active population, constituting not less than 20 per cent of all residents; or (c) all residents whose means during the contingency do not exceed prescribed limits.

The Committee hopes that the Government will be able to re-examine the situation in view of the above comments and to state in its next report the measures which have been taken or are envisaged to include in the Libyan social security scheme measures relating to unemployment benefit and family allowances in order to ensure that full effect is given to Part IV (Unemployment benefit) and Part VII (Family benefit), in accordance with the recommendations of the National Committee for the Examination of International Labour Conventions and Recommendations. It requests the Government to indicate in its next report the progress achieved in this respect.

Niger (ratification: 1966)

1. Part V, Articles 28 and 29 (Old-age benefit). In answer to the Committee's previous comments, the Government indicates that insured persons who meet the requirements in section 13(1) of Decree No. 67-025 of 1967 are entitled to a normal old-age pension, the previous wage being the reference for determining the amount of the pension, in accordance with national practice. It adds that, as part of the proposed revision of the social security legislation, it is planned to replace the term "date of eligibility" by "date of termination of activity". The Committee notes this information. Pending the above-mentioned revision, it again asks the Government to indicate, with examples if possible, how the average monthly wage (provided for in section 15 of Decree No. 67-025 of 1967) which serves as the basis for determining the monthly amount of old age pension is calculated in practice, particularly when the beneficiary, even though he meets the conditions set out in section 13 of the above Decree, has not contributed for the three or five last years preceding the date of eligibility. The Committee would also appreciate information on how this method of calculation affects the amount of the old age pension paid to such a beneficiary.

The Committee also asks the Government to indicate under which provision a reduced benefit is granted, in accordance with paragraph 2

of Article 29 of the Convention, to a protected person who has completed a qualifying period of 15 years' contribution or employment but has not been registered for 20 years as required by section 13(1)(a) mentioned above.

2. Part VII (Family benefit), (a) Article 43 (Length of qualifying period). With reference to its previous comments, the Committee notes that the proposed revision of the texts concerning the length of the qualifying period for family allowances is still on the way. It therefore once again expresses the hope that the proposed revision will be adopted shortly and that it will reduce to three months, in accordance with the Convention, the length of the qualifying period for family allowances, which currently stands at six consecutive months' employment with one or several employers (sections 8 and 9 of Decree No. 65-116 of 18 August 1965).

(b) Article 44 (in relation to Article 76, paragraph 1(b)(ii)). The Committee notes the statistical information provided by the Government. It notes, however, that the amount of the minimum basic wage (18,898 CFA francs) to which the Government refers, does not seem to have varied since 1 October 1980 (according to the information supplied by the Government in its letter of 4 June 1987). In these circumstances, and in order to ascertain the extent to which the value of family benefits reaches the level prescribed by the Convention, the Committee asks the Government to provide the statistical information required under Article 44 in the report form adopted by the Governing Body, indicating, for the same reference period, in addition to the total amount of benefits in cash and in kind and the total number of children of all persons protected, the updated amount of the wage of an ordinary adult male labourer determined in accordance with Article 66 of the Convention.

3. Part XI, Article 65, paragraph 10, and Article 66, paragraph 8 (Revision of current periodical payments). In its previous comments the Committee asked the Government to provide information on the measures taken to ensure application of these provisions of the Convention which specify that periodical payments, particularly in respect of old age and employment injury (except those covering temporary incapacity) shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living. In its report, the Government indicates that there has been no wage increase since April 1981 and that, consequently, the above-mentioned benefits which are calculated on the basis of remuneration actually received cannot be changed.

The Committee notes this statement. It wonders, however, whether the general level of earnings has not changed since 1981 in view of the inflation registered since that date. In addition, in view of the importance that the Committee attaches to maintaining the purchasing power of pensions, which is very often the main if not the sole source of income of the persons concerned, the Committee again expresses the hope that the Government will take the necessary steps to ensure an increase in the rates of periodical payments for the above-mentioned contingencies, and that it will provide with its next report the statistical data required on this subject established in the manner indicated by the report form under Title VI, article 65.

4. Part XIII (Common provisions), Article 69(b) (in relation to articles 30 and 38). In answer to the comments the Committee has been making for several years, the Government indicates in its report that as part of the revision of the social security legislation, the abolition of the suspension of benefit when the insured person is serving a sentence of detention pursuant to section 23(2) of Decree No. 67-025 of 1967 has been advocated. It adds that such an amendment would enable the insured person to receive all his entitlements even if he is maintained out of public funds. The Committee notes this statement. It hopes, therefore, that the above-mentioned amendment to section 23(2) will be adopted shortly.

5. Part XIV (Miscellaneous provisions), Article 76, paragraph (b)(ii). Please supply the statistical information required under Article 65 in the report form (Titles I to V) concerning the level of old age, employment injury and maternity benefits. Please state in particular the updated amount of the wage of a skilled manual male worker selected in accordance with paragraph 6 or paragraph 7 of article 65.

Peru (ratification: 1961)

The Committee takes note of the detailed information communicated by the Government in its report, particularly concerning the new pensions system introduced by Legislative Decree No. 25897 on the private system for the administration of pension funds (SPP) of 27 November 1992, as well as by Supreme Decrees Nos. 206-92-EF and 220-92-EF. The Committee also notes the comments of "Centro Union de Trabajadores de Perú IPSS".

The Committee takes note, in particular, that the national social security pensions system administered by the Peruvian Institute of Social Security will continue to be in effect for its present members, unless they opt to be members of the new private pensions system. It also notes that new entrants to the labour market have the option of joining one or the other of the above systems. However, the Committee notes that once they have joined a pension fund administration (AFP), the wage-earners can only rejoin the IPSS national system during a transitional period of two years after the entry into force of the new law, that is to say until 6 December 1994. Given the importance and the complexity of the questions raised regarding the implementation of the Convention by the establishment of the private system for the administration of pension funds, the Committee decided to defer the examination until the next session.

Switzerland (ratification: 1977)

The Committee notes the information supplied by the Government in its report. It also notes the discussions at the Conference Committee in 1993 in the context of Convention No. 128.

Part VI (Employment injury benefit)

1. Article 38 of the Convention (in relation to Article 69(f)). In its previous comments the Committee raised the question of the compatibility with the above-mentioned provisions of the Convention of section 37(2) and section 38(2) of the Federal Accident Insurance Act of 20 March 1981 (LAA), which allows the cash benefits due to victims of occupational accidents or their survivors (in the case of the latter, the benefits may even be refused) to be reduced in the event of serious negligence on the part of the persons concerned. As the Committee pointed out in its previous comments, Article 69(f) of the Convention allows suspension of benefits only when the contingency has been caused by wilful misconduct on the part of the person concerned. It therefore asked the Government to provide information on any developments concerning the Federal Bill on the general part of social insurance law which, according to the Government, was to take full account of the above-mentioned provisions of the Convention.

After stating in its report that it still had no knowledge of any case law concerning the reduction of employment injury benefits for serious negligence, the Government goes on to indicate that the parliamentary debate on the above Bill has been suspended. It emphasizes that the Bill was initiated in Parliament since it was formulated by the Committee of the States Council. The Bill has already been approved by the States Council. The National Council has asked for further time to examine the matter. The question at issue is whether it would not be more appropriate, at a time when numerous specific laws on social security are being revised, to draft a law to harmonize them which would be less complicated than the current Bill concerning the general part of social insurance. The Government adds that, in any event, the issue is now in the hands of Parliament and there is no question but that the LAA will be brought into conformity with the Convention by one type of law or another.

The Committee takes note of this information. It hopes that the parliamentary debates on the issue will be pursued and will lead in the near future to the adoption of a text which takes full account of the above-mentioned provisions of the Convention.

2. Article 34, paragraphs 1 and 2. In its previous comments the Committee referred to section 10(3) of the above-mentioned Federal Accident Insurance Act (providing that the Federal Council may set the requirements for entitlement to home care, and the extent to which such care is covered by insurance), and section 18 of the Ordinance of 20 December 1982 (providing that the insurance covers only a part of the costs arising out of home care, prescribed by a physician and provided by an authorized person). It therefore asked the Government to take the necessary steps to provide expressly in the legislation that victims of occupational accidents shall not participate in the costs of nursing care at home, in accordance with the Convention. Since in its report the Government confirms that the insurers cover all costs arising from such care and that the tariff agreement with nursing personnel which was to fix the contribution of insured persons to home care costs will not be concluded in the immediate future, the Committee can but reiterate the hope that the necessary measures will

be taken to ensure that Swiss practice in this respect is given statutory effect.

Venezuela (ratification: 1982)

Part II (Medical care), Article 9, and Part VIII (Maternity benefit), Article 48. The Committee notes the statistical information supplied by the Government on the scope of the two parts of the Convention referred to. It notes with interest, in particular, the information on the extension of the coverage of the social security scheme to the working population of other sectors in various parts of the country. The Committee notes that, according to the statistics supplied, in 1992 the number of persons covered by the general scheme of the Venezuelan Social Security Institute stood at 2,034,494 and that of the active population, 6,654,556. In this connection, the Committee observes that, according to the ILO Bulletin of Labour Statistics for 1993, the total number of wage earners in 1991 stood at 4,534,709 and that the percentage of employees protected (45 per cent) does not therefore seem fully to meet the requirement of paragraphs (a) of Articles 9 and 48 of the Convention (50 per cent of all employees). In these circumstances, the Committee hopes that the Government will pursue its efforts gradually to extend the social security scheme to new categories of employees. It asks the Government to provide information on all progress made in this respect. The Government is also asked to continue to provide the statistical information referred to, which is required under Title I of the report form adopted by the Governing Body, Article 76, paragraph 1(b), of the Convention, specifying the total number of employees protected, not only under the general scheme but also under special schemes, and the total number of employees for the same period.

Part II (Medical care), Article 10, paragraph 1(a). In answer to the Committee's previous comments, the Government states that the Board of Governors of the Venezuelan Social Security Institute (IVSS) has not yet adopted new internal rules under section 119 of the General Regulations of the Social Security Act, in view of the restructuring of the IVSS now under way, one of whose objectives is to create a governing body which will have the functions of the present Board of Governors. The Committee notes this statement, as well as the text of the Act respecting the restructuring of the IVSS of 20 March 1992. It asks the Government to report on progress in the restructuring. The Government is also asked to provide the text of any specific regulations or agreements enabling it to ascertain the nature of the various medical benefits granted in conformity with Article 10, paragraph 1(a) of the Convention.

Part VIII (Maternity benefit), Article 50 (read in conjunction with Article 65). The Committee notes that the Government's report does not contain the statistical information which it requested and which it needs to ascertain whether the amount of maternity benefits attains the percentage prescribed by the Convention (45 per cent) for a standard beneficiary whose wage is equal to that of a skilled manual male employee, in accordance with Article 65, paragraph 3.

The Committee asks the Government to provide, in particular, the statistical information requested in Titles I and V, Article 65, of the report form adopted by the Governing Body.

Part VIII (Maternity benefit), Article 52. (1) The Committee notes with interest that, under section 385 of the Organic Labour Act which came into effect on 1 May 1991, the postnatal maternity rest period is 12 weeks. It also notes with interest the Government's statement that the social security legislation which provides for the payment of postnatal maternity benefit for a shorter period than the one prescribed in the new Organic Labour Act, will be brought into line with the latter. The Committee asks the Government to indicate the measures it plans to take to harmonize the social security legislation with the Organic Labour Act in this respect, in conformity with Article 52 of the Convention, which provides that when national laws or regulations require or authorize a longer period of abstention from work, maternity periodical payments may not be limited to a period less than such longer period.

(2) The Committee observes that, according to the Government's report, under section 143 of the General Regulations of the Social Security Act, insured persons are entitled to maternity benefit equivalent to "six weeks before the probable date of confinement and ten further weeks starting from the date of the confinement". Since the texts available at the Office (section 11 of the Social Security Act, 1967 version; and section 143 of the General Regulations, 1979 version), postnatal maternity benefit is equivalent to six weeks, the Committee asks the Government to indicate under which provision the social security legislation was amended, and to provide a copy of it.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Costa Rica, France, Iceland, Israel, Japan, Libyan Arab Jamahiriya, Luxembourg, Mauritania, Mexico, Senegal, Switzerland, Zaire.

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

Convention No. 103: Maternity Protection (Revised), 1952

Equatorial Guinea (ratification: 1985)

With reference to its previous comments, the Committee notes with satisfaction that under Act No. 2/91 of 4 April 1991 revising certain sections of the Act of 1984 respecting social security, the rate of maternity allowances has been increased to 75 per cent of the female worker's basic earnings that are subject to contributions, and that, under section 32(c) of the General Social Security Scheme Regulations (as approved by Decree No. 100/1990), female workers who have not completed the qualifying period shall be entitled to benefits equivalent to two months' wages, in accordance with Article 4, paragraphs 2, 5 and 6, of the Convention. It also notes with

satisfaction that Act No. 8/1992 of 30 April 1992 respecting public employees of the State now includes, in section 81(4), the right of certain women employees of the State in certain circumstances to interrupt their work for the purposes of nursing, in accordance with Article 5 of the Convention.

The Committee none the less wishes to draw the Government's attention to certain points that it is raising in a direct request.

Greece (ratification: 1983)

1. With reference to its previous comments, the Committee notes with satisfaction that, in accordance with Article 2 of the Convention, the provisions of section 4 of Act No. 1846 of 1951, under which foreigners who were temporarily employed in Greece were excluded from the social security scheme, have been repealed by section 24(1) of Act No. 1902 of 11 October 1990 to issue regulations governing pensions and other related matters, which henceforth permits the protection laid down by the Convention to be provided to this category of women workers. The Committee also notes the Government's statement that, as of the date of the adoption of the above Act, all foreign nationals employed in Greece in any work insured under the Social Insurance Institution (IKA) are subject to compulsory insurance, including maternity insurance, from the first day of their employment.

2. The Committee also notes with satisfaction that section 105(2) of Presidential Decree No. 611 of 1977, which was the subject of its previous comments, has been amended by section 15(2) of Act No. 2085 of 20 October 1992 so as to provide, in accordance with Article 3, paragraph 3, of the Convention, compulsory postnatal leave of two months to public officials whose child is stillborn.

Italy (ratification: 1971)

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

1. Article 6 of the Convention (domestic workers). In reply to the Committee's previous comments, the Government indicates that domestic workers are excluded from the protection against dismissal during maternity leave provided by Act No. 1204 of 1971 concerning the protection of working mothers. It adds that the collective agreement of 1987 for domestic workers and its extension of 15 July 1992 establishes that, from the time a medical certificate of pregnancy is presented until the period of compulsory leave, a worker may not be dismissed, whereas other workers under the terms of section 2 of the above Act "may not be dismissed from the beginning of pregnancy through the end of compulsory leave, and until the child reaches the age of one year"; thus, while domestic workers have effective protection for allowances, they do not enjoy the same legal protection as other workers. The Government adds, however, that there is little unemployment in the domestic sector, and the worker can find placement within a short time either with the same employer or with another.

The Committee understands from the above explanations that the Government is fully conscious of the fact that neither the national legislation, nor the said collective agreement ensures to domestic workers the protection against dismissal during maternity leave required by Article 6 of the Convention, which prohibits giving notice of dismissal to women workers falling under its scope - including domestic workers - during the period of absence on maternity leave or at such a time that the notice would expire during such absence. In this situation, the Committee cannot but once again express the hope that the Government, in line with its intentions expressed previously, will not fail to take the necessary measures to bring the national legislation into full conformity with the Convention on this point. The Government is requested to indicate any progress achieved in this respect in its next report.

2. The Committee notes the comments made by the Unione Italiana del Lavoro (UIL).

Libyan Arab Jamahiriya (ratification: 1975)

1. Article 3, paragraphs 2, 3 and 4, of the Convention (length of maternity leave). In answer to the Committee's previous comments, the Government indicates that section 43 of the Labour Code of 1970, which provides for a total of 50 days' pre- and post-natal maternity leave, is to be considered as having been implicitly repealed following the adoption of section 25 of the 1980 Social Security Act, under which women workers are entitled to maternity benefit for a period of three months. The Committee notes this statement. Since section 25 of the Social Security Act concerns the payment of benefits to women workers in the event of the birth of a child, and not the maternity leave itself which is dealt with in section 43 of the Labour Code, the Committee trusts that the Government will have no difficulties in amending above-mentioned section 43 in order to bring it into conformity with the provisions of the Social Security Act and Article 3 of the Convention, which provides for a minimum of 12 weeks' maternity leave, of which six weeks at least must be taken after confinement. The Committee recalls in this connection that, in its previous report, the Government stated that the tripartite committee established under the decision of the secretary of the Public Service People's Committee recommended to the General People's Committee that, in particular, section 43 of the Labour Code should be amended to bring it into conformity with Article 3 of the Convention. It hopes that, in making the above amendment, the Government will also take the following points into consideration:

- (a) The Committee recalls that section 43 of the Labour Code makes the granting of maternity leave conditional upon the completion of a qualifying period of six consecutive months of service with an employer, which is contrary to the Convention. In its last report, the Government indicates that under section 25 of the Social Security Act, the implementing regulations fix a qualifying period of four months' contributions for entitlement to maternity cash benefits. It adds that such a qualifying period is necessary to avoid abuse and that it is in conformity with

Article 4, paragraph 4, of the Convention. While noting this information, the Committee wishes to point out that its comments concerned not the contribution requirements for entitlement to maternity benefit fixed by the Social Security Act, but the six months' qualifying period provided for in section 43 of the Labour Code for the grant of maternity leave. Since the Convention does not allow any such requirement for entitlement to leave, the Committee hopes that it will be removed from the legislation when section 43 of the Labour Code is amended.

- (b) The Committee again recalls that section 43 of the Labour Code does not provide, as does Article 3, paragraph 4, of the Convention, that where confinement occurs after the presumed date, prenatal leave must in all cases be extended to the actual date of the confinement, and that the period of compulsory leave to be taken after confinement shall not be reduced on that account. The Committee hopes that it will be possible in the near future to amend section 43 of the Labour Code by including a provision to this effect.

2. Furthermore, the Committee notes that the Government's report contains no information in answer to the comments it has been making for many years on a number of matters. In these circumstances, the Committee is bound to repeat its former comments which read as follows:

Article 1 of the Convention (scope). In its previous comments, the Committee noted that under section 1 of the Labour Code, the scope of the Code and, consequently, the provisions of the Code restricting maternity protection, do not extend to the following workers, who are nevertheless covered by the Convention: domestic workers and persons in similar categories, women engaged in stock raising and agriculture (except those who work in enterprises processing agricultural products or repairing machinery necessary for agriculture), and permanent or temporary public officials working in state administrations and public bodies. The Committee also noted that some of these categories of women workers will be covered by special regulations. Since the report contains no information on this point, the Committee asks the Government to supply copies of such regulations, if any, and to indicate how these workers enjoy the protection provided for by the Convention under Article 3 (maternity leave), Article 5 (nursing periods) and Article 6 (prohibition of dismissal).

Article 2. The Committee notes that under section 5 of the Registration, Contributions and Inspection Regulations of 1982, registration under social security for non-Libyan officials is on a voluntary basis unless there is an agreement concluded with the country of which these workers are nationals. Please indicate the number of non-Libyan female officials and the number of them who are registered under social security, if any.

Article 4, paragraphs 1, 4 and 8 (cash benefits). (a) In accordance with the last paragraph of section 25 of the Social Security Act (No. 13) and section 43 of the Labour Code, the maternity benefits provided for women workers, other than self-employed women workers, appear to be the responsibility of the employer. Furthermore, in its report, the Government

indicates that the regulations to specify the conditions, rules and guarantees with regard to the provision of maternity benefits, inter alia, which are to be adopted, will include a provision prescribing that the social security fund will pay the benefits to insured women who are entitled to them in cases where the employer is unable to do so, and that the fund reserves the right to claim reimbursement from the employer of the amounts it has paid out, whenever possible. The Committee recalls in this connection that the Convention, in Article 4, paragraphs 4 and 8, provides that maternity benefits shall be provided either by means of compulsory social insurance or by means of public funds, and that in no case shall the employer be individually liable for the cost of such benefits due to women employed by him. The Committee therefore hopes that the Government will be able to re-examine the question in the light of the provisions of the Convention and that it will be able to indicate the measures taken or under consideration to ensure that full effect is given to the Convention on this point.

(b) Since section 25 of Social Security Act No. 13 of 1980 does not contain provisions on the subject, the Committee hopes that the regulations issued under the above Social Security Act will expressly provide that in the event of the extension of the length of maternity leave in the circumstances envisaged in Article 3, paragraph 4, of the Convention (error in the presumed date of confinement), the period during which the maternity benefit is provided will be extended for an equivalent period.

Netherlands (ratification: 1981)

1. With reference to its previous comments, the Committee notes with satisfaction that, according to the Act of 22 February 1990 to amend the Sickness Act and to make consequential amendments to the Civil Code, maternity benefit is now paid for 16 weeks and may commence between four and six weeks before confinement, thus giving better effect to Article 4, paragraph 1 (in relation to Article 3, paragraphs 1 to 3), of the Convention.

2. Article 5, paragraph 2, of the Convention. In its previous comments and following the observations made by the Confederation of the Netherlands Trade Union Movement (FNV), the Committee has been drawing the Government's attention to the fact that neither the legislation nor, according to the available information, collective agreements contained provisions expressly laying down that interruptions of work for the purpose of nursing are to be counted as working hours and remunerated accordingly, as required by the Convention. Since the Government's report does not contain any information in this respect, the Committee cannot but once again ask the Government to indicate the measures taken or contemplated to ensure that full effect is given to this provision of the Convention in legislation as well as in practice.

Spain (ratification: 1965)

1. In its direct request of 1993, the Committee had expressed its intention to examine at the present session the communication of the General Union of Workers (UGT), received in January 1993, in the light of any comments that might be made by the Government in this respect. In November 1993, new communications have been received from the UGT and from the Trade Union Confederation of the Workers' Commissions (CC.OO) concerning the application of the Convention, in respect of which the Government had supplied information in its report received in December 1993.

1. Article 4, paragraph 3, of the Convention. (a) The UGT states in particular that freedom of choice of doctor and of hospital is not ensured through the effective application in practice of the legislation, because in the Spanish system of public health the beneficiaries are assigned to the district of their residence. In its report, the Government refers to Royal Decree No. 1575 of 10 September 1993 which regulates the free choice of generalists and paediatricians in the primary health care services of the National Health Institute with regard to the corresponding health districts. The Government emphasizes that the present development of the primary health care services and the progressive establishment of health centres has made it possible to improve the quality of medical assistance and to promote good personal relations between a doctor and a patient, ensuring a much greater presence of doctors and increasing the quantity and the quality of the services rendered. The Committee notes this information. It would be glad if the Government would continue to provide in its future reports information on the manner in which Decree No. 1575 of 1993 has contributed to the observance of the principle of freedom of choice of doctor and freedom of choice between a public and private hospital, as required by the above-mentioned provision of the Convention.

(b) As regards the question of the gratuity of the pharmaceutical services raised by the UGT, the Committee recalls that Article 4, paragraph 3, does not mention medicaments among the medical benefits that shall be provided to women workers on maternity leave.

2. Workers in domestic service (Articles 3, 4, 5, 6). The UGT states that the protection of workers in domestic service provided by the Convention is not realized in practice in view of the possibility afforded by the legislation for the employer to terminate the employment contract of his or her employee by "renunciation" (por "desistimiento"). According to the UGT, employers take advantage of this provision as soon as they become aware of the pregnancy of their employee. In its report the Government emphasizes that the common regime established in respect of maternity leave, nursing breaks and social security benefits is applicable to domestic servants. In its view, the procedure of "renunciation" does not affect the totality of the domestic servants, as it is foreseen only in respect of fixed-term employment contracts. The Committee takes note of this information. It notes that, according to section 10(2) of Royal Decree No. 1424/1985 of 1 August, an employment contract of a domestic servant can be terminated before the expiration of an agreed term of service by "renunciation" on the part of the employer. It considers therefore

that recourse to this procedure by the employer may, in certain cases, result in depriving, in practice, domestic servants of the protection provided by the Convention. Consequently, the Committee hopes that the next report of the Government will contain information on the measures taken or contemplated to ensure that the protection provided by the Convention cannot be ignored in the case of domestic servants.

3. Point V of the report form. With reference to the comments of a more general character made by the Trade Union Confederation of the Workers' Commissions (CC.OO), the Committee would like the Government to supply in its future reports detailed information on the application of the Convention in practice.

II. The Committee also wishes to draw the Government's attention to the following point.

Article 4, paragraph 8. The Committee notes the legislative provisions adopted during the period covered by the Government's report. It notes in particular that Law No. 28/1992 of 24 November regarding urgent budgetary measures, which approved Royal Decree No. 5/1992 of 21 July, has added paragraph (d) to section 208 of the consolidated text of the General Social Security Law, authorizing enterprises affiliated to the general scheme to assume directly the payment, at their own expense, of cash benefits for temporary incapacity for work resulting from an ordinary disease or from an accident of non-occupational origin. Also, the Decree of 18 January 1993 has established the conditions and requirements to be fulfilled by the enterprises prevailing themselves of the voluntary collaboration scheme for the payment of cash benefits for temporary incapacity for work in cases of an ordinary disease, maternity or non-occupational accident. This Decree inserted in Chapter II of the Decree of 25 November 1966 regulating the collaboration of the enterprises in the administration of the General Social Security Scheme, a new section 4(a), Article 15ter of which stipulates that "the enterprises which prevail themselves of the form of collaboration regulated by this section will have the following obligations: (a) to pay at their own expense cash benefits due to their workers in case of temporary incapacity for work due to an ordinary disease, maternity or non-occupational accident". The Committee recalls in this respect that Article 4, paragraph 8, of the Convention stipulates that "in no case shall the employer be individually liable for the cost of such benefits due to women employed by him". It would ask the Government to indicate the manner in which it intends to give full effect to this provision of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Equatorial Guinea, Ghana, Greece, Hungary, Netherlands, Portugal, Spain, Uruguay, Zambia.

Convention No. 104: Abolition of Penal Sanctions (Indigenous Workers), 1955

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

Convention No. 105: Abolition of Forced Labour, 1957Central African Republic (ratification: 1964)

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

Article 1(a) of the Convention. In the comments that it has been making for many years, the Committee has noted that sentences of imprisonment involving compulsory labour may be imposed under the following legislative provisions:

- Act. No. 63/411 of 17 May 1963 (political activities undertaken outside the "MESAN" national movement);
- Act No. 60/199 of 12 December 1960 (dissemination of publications that are banned on the grounds that they are likely to prejudice the edification of the Central African nation);
- Order No. 3-MI of 25 April 1969 and Decree No. 70/238 of 19 September 1970 (dissemination of foreign periodicals or news that has not been approved by the censor).

The Committee noted the repeated indications of the Government that draft amendments to these texts had been submitted to the competent national authorities with a view to their adoption and that, furthermore, the provisions of Act No. 63/411 of 17 May 1963 had fallen into abeyance following the automatic dissolution of the MESAN.

The Committee noted, however, that, by virtue of article 3 of the new Constitution, adopted in 1986, the Central African Democratic Assembly was the sole party and it also noted that penalties of imprisonment were laid down in section 4 of the above-mentioned Act No. 63/411 of 17 May 1963 for any person "who establishes or attempts to establish a party, movement, group, association or organization of a political nature".

The Committee noted the Government's repeated statement that draft texts were before the competent national authorities with a view to their adoption. It expressed the hope that, in the near future, the Government would report on the measures adopted to ensure that sentences of imprisonment involving compulsory labour may not be imposed on persons who establish or attempt to establish a party, movement, group, association or organization of a political nature outside the sole party (Central African Democratic Assembly), including measures taken to repeal the provisions of Act No. 63/411 and the other texts referred to in its comments, in order to ensure observance of the Convention, and that the Government will provide the relevant texts.

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

Guatemala (ratification: 1959)

Article 1(a), (c) and (d) of the Convention. For several years the Committee has been referring to the provisions of Legislative Decree No. 9 of 10 April 1963, and to sections 390(2), 396, 419 and 430 of the Penal Code, under which sentences of imprisonment involving, by virtue of section 47 of the Penal Code, the obligation to work, can be imposed as a punishment for expressing certain political opinions, as a measure of labour discipline or for participation in strikes.

In its report, the Government states that the Congress of the Republic has before it a preliminary draft of a Penal Code which will take into consideration the Committee's comments.

The Committee notes that this matter has been the subject of its comments for more than ten years and once again recalls that, as stated in paragraphs 102 to 109 of its 1979 General Survey on the Abolition of Forced Labour, States which have ratified the Convention take upon themselves the obligation to suppress any form of forced labour, including labour as a result of a conviction in a court of law, in the cases set out in the Convention.

The Committee also recalls that, with a view to bringing the legislation into harmony with the Convention, measures can be taken either to redefine the offences which can be sanctioned in order to ensure that no-one can be punished for having expressed political opinions or indicated their ideological opposition to the established political, social or economic system, or by according a special status to prisoners convicted of certain offences, under which they are free from the obligation to perform compulsory prison labour, although they retain the right to work upon request.

The Committee trusts that the Government will soon take the necessary measures to ensure observance of the Convention on this point.

Iraq (ratification: 1959)

The Committee notes the information provided by the Government in its report received in the ILO in March 1993, as well as the discussion which took place in the Conference Committee in 1992.

Prison work. 1. In earlier comments, the Committee noted that Law No. 104 of 1981 on the State Organization for Social Reform governing prison work does not distinguish political from other prisoners. Similarly, the definition of imprisonment in section 87 of the Penal Code provides for compulsory work as laid down in the Penal Institutions Law.

The Committee notes the Government's renewed statement in its report and to the Conference Committee, that neither section 87 of the Penal Code nor Law No. 104 of 1981 provide for forced labour on the part of prisoners. Work performed by prisoners is not compulsory; it

is executed in conformity with section 18 of Law No. 104 which provides that each resident has the right to work in conformity with his capacities and qualifications, in order to get vocational training; work is governed by the provisions of the Labour Code and, in practice, it is not even possible to satisfy all the demands for work.

The Committee notes that the Government, while restating its position that legislative provisions and practice confirm the non-existence of any form of forced labour in the social reform section (prison), indicates in its report that the necessary measures to modify section 19 of Law No. 104 of 1981 are being taken with a view to eliminating any doubt and to provide clearly that work of persons sentenced to prison is optional and depends on their will and free choice.

Referring to the explanations in paragraphs 102 to 109 of the 1979 General Survey on the Abolition of Forced Labour and the explicit terms of the Convention, the Committee recalls that penal sanctions involving the obligation to work are covered by the Convention in cases of punishment for the expression of political opinions or ideological opposition to the political, social or economic system, or for breach of labour discipline, or participation in strikes.

The Committee requests the Government to provide a copy of the law as amended.

2. Article 1(c) and (d). In previous comments, the Committee referred to section 364 of the Penal Code, which provides for imprisonment (with an obligation to work) in cases where officials or persons with public functions leave their work even after resignation or do not carry out their work when this might endanger the life, health or safety of the population or cause riots or unrest or paralyse a public service. It also noted that under Resolution No. 150 of 1987 of the Revolutionary Command Council (RCC) all workers in state service and the socialist sector are public officials.

Referring to the June 1991 report of the Governing Body Committee, the Committee noted the severe limitations imposed on resignation of officials under the Revolutionary Council Resolutions No. 521 of 7 May 1983 and No. 700 of 13 May 1980; it also noted that under Resolution No. 200 of 12 February 1984, any official or worker in state services or the socialist sector who after written notice does not resume work or exceeds leave by more than three days without a reasonable excuse is subject to imprisonment of from six months to ten years; and under Resolution No. 552 of 28 June 1986 the same applies to all officials or graduates centrally placed who do not accept their posting.

The Committee notes with interest that Resolutions Nos. 521 of 7 May 1983 and 200 of 12 February 1984 were repealed by Orders Nos. 170 and 171 of 5 June 1991.

The Committee hopes that the Government will indicate measures taken or envisaged as regards the provisions of Resolutions No. 700 of 13 May and No. 552 of 28 June 1986.

3. Article 1(d). In earlier comments, the Committee noted that under section 132 of the Labour Code (Act No. 71 of 1987) unresolved labour disputes are referred to the Labour Dispute Chamber of the Court of Cassation, whose judgement is final under section 133.

Section 136(i) lays down the workers' right to stop work if the employer refuses to observe the Court's decision and sanctions are imposed on the employer. The Committee noted that this seemed to be the only right to strike allowed. It asked the Government to indicate the sanctions applicable to workers on strike despite the final judgement under, i.e. in any case other than one falling under section 136.

The Committee takes note of the Government's statement in its report that no other provisions exist concerning sanctions applied to workers on strike.

4. In previous comments, the Committee referred to sections 197(4) and 216 of the Penal Code, under which imprisonment (with a work obligation) for a fixed term or for life may be imposed in cases where activities are stopped or disrupted in public services or bodies, public utilities, state industrial installations or public establishments of importance to the national economy. The Government indicated in earlier reports that state officials and government establishments had no right to strike; section 197(4) was applied without qualification and made no distinction between essential and non-essential services provided by the undertakings, and the threat of imprisonment for disruption of work was intended to induce the continuation of work by anyone who would otherwise abandon it and thus disrupt the services in question.

The Committee noted that under those Penal Code provisions sanctions involving compulsory prison work were applicable to work stoppages in a large range of activities and industrial installations. It asked the Government to indicate the steps taken or proposed to ensure the application of the Convention in this respect, for example by restricting the application of those provisions to officials whose functions include the exercise of public authority and employees in essential services, interruption of which would endanger the life, personal safety or health of the whole or part of the population.

The Committee notes the Government's indication in its report that the necessary measures have been taken to amend sections 197(4) and 364 of the Penal Code (to which the Committee refers under point 2). The Committee requests the Government to provide copies of the provisions adopted to this effect. It hopes that the Government will also indicate the measures taken or envisaged in relation to section 216.

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

Liberia (ratification: 1962)

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

Article 1(a) of the Convention. 1. The Committee noted the entry into force on 6 January 1986 of the new Constitution which guarantees fundamental rights, in particular the right to freedom of expression (article 15), the right to assemble and to

associate (article 17), and provides for the free establishment of political parties, subject to their being registered (articles 77 and 79). The Committee noted that under article 95 of the new Constitution any enactment or rule of law in existence immediately before the coming into force of the Constitution, whether derived from the abrogated Constitution or from any other source shall, in so far as it is not inconsistent with any provision of the new Constitution, continue in force as if enacted, issued or made under the authority of the Constitution. The Committee referred to its previous comments in which it observed that prison sentences (involving, under Chapter 34, section 34-14, paragraph 1, of the Liberian Code of Laws, an obligation to work) might be imposed in circumstances falling within Article 1(a) of the Convention under section 52(1)(b) of the Penal Law (punishing certain forms of criticism of the Government) and section 216 of the Election Law (punishing participation in activities that seek to continue or revive certain political parties). The Committee requested the Government to state whether the above provisions continue in force and, if so, to indicate the measures taken or contemplated with a view to their repeal. The Committee also requested the Government to provide a copy of the Decree No. 88A of 1985 relating to criticism of the Government.

Article 1(c) and (d). 2. In earlier comments the Committee also referred to various provisions of the Maritime Law punishing breaches of labour discipline and of Decree No. 12 of 30 June 1980 prohibiting strikes. In the absence of a reply, the Committee again addressed a direct request on these matters to the Government.

3. In its previous comments concerning Decree No. 12 of 30 June 1980 prohibiting strikes, the Committee noted the Government's statement in its report for 1982-83 that no penalty had been imposed for violation of the Decree and the statement by a Government representative to the Conference Committee in 1984 during the discussion of Convention No. 87 that the ban on strikes was due to be lifted on 26 July 1984.

The Committee observed that the Government's report contained no information in this regard. The Committee noted however from the conclusions adopted by the Committee on Freedom of Association concerning Case No. 1219 (in particular the 241st Report of that Committee) that the ban on strikes had not yet been lifted. The Committee requested the Government to provide information on any measures adopted or envisaged in this matter. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Nigeria (ratification: 1960)

The Committee notes the information provided by the Government in its report of 9 December 1993.

Article 1(a) of the Convention. In its previous comments, the Committee noted that the transition to civilian rule, scheduled for

2 January 1993, was extended to 27 August 1993. The Committee notes that on 17 November 1993, after an 82-day period of civilian rule, albeit by a non-elected administration, the country came again under military control. A Provisional Ruling Council was instituted, the National Assembly dissolved, the two existing political parties banned and political activity prohibited. The 1979 Constitution was restored.

The Committee notes the Government's indication that under the 1979 Constitution, the rights to freedom of thought, conscience, religion and expression are guaranteed (sections 35 and 36 of the 1979 Constitution). The Committee hopes that the Government will provide information on legislative or statutory provisions in force in relation to the expression of views, freedom of association and assembly and political activities. Referring in this context to the prohibition of political activities, the Committee recalls that the Convention prohibits the use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee requests the Government to indicate the measures taken or envisaged to ensure that the persons protected by the Convention may not be punished by penalties which would involve an obligation to work.

The Committee referred previously to the State Security (Detention of Persons) Decree No. 2 of 1984, as modified, under which persons can be detained for successive periods of six weeks. The Committee notes the Government's indication in its report that since 27 August 1993 all detainees under Decree No. 2 have been released. The Committee hopes that the Government will provide a copy of any Act or regulation governing conditions of detention under Decree No. 2 of 1984, as previously requested.

Article 1(c) and (d). In previous comments, the Committee referred to the following provisions: section 81(1)(b) and (c) of the Labour Decree, 1974; section 117(b), (c) and (e) of the Merchant Shipping Act; section 13(1) and (2) of the Trade Disputes Decree No. 7 of 1976. The Committee noted previously the Government's information that section 81(1)(b) and (c) of the Labour Decree, 1974 and section 13(1) and (2) of the Trade Disputes Decree No. 7 of 1976 had been submitted to the National Advisory Council for necessary amendments.

The Committee notes the Government's indication in its latest report that these provisions are still under consideration by the National Advisory Council who has yet to conclude its work. It also notes the Government's statement that the relevant amendments to section 117(b), (c) and (d) of the Merchant Shipping Act have not been effectuated.

The Committee hopes that the necessary action to ensure the observance of the Convention in this regard will be taken and that the Government will indicate the measures taken or envisaged to amend the legislative provisions referred to.

Saudi Arabia (ratification: 1978)

The Committee notes the comments made on 17 March 1993 by the International Confederation of Arab Trade Unions concerning the application of the Convention, and the Government's reply to these comments dated 13 October 1993.

The Committee is addressing a request directly to the Government concerning a number of provisions which prohibit collective activities under penalty of imprisonment.

See observation under Convention No. 29.

Sudan (ratification: 1970)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report.

Article 1(a) and (d) of the Convention. In its previous comments, the Committee noted that a state of emergency had been proclaimed in 1989 which extended the previous state of emergency and that the provisional Constitution of 1985 had been suspended. The Committee notes that political parties remain prohibited and that associations, such as the Sudan Bar Association have been dissolved. A new Constitution is reported to be under examination, but has not yet been enacted. The Committee previously noted that offences against the regulations to give effect to the state of emergency of 1989 are subject, inter alia, to imprisonment (involving an obligation to work under the terms of the Prison Regulations, Chapter IX).

The Committee expressed the hope that the Government would take the necessary measures to ensure that penalties involving compulsory labour could not be imposed as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the political, social or economic system, with particular reference to the expression of views by the press, political activities and the right of association and assembly.

The Committee also noted previously that Constitutional Decree No. 2 of 1989 imposed a prohibition on any strike, save by special permission and that under the Industrial Relations Act of 1976, participation in strikes is punishable with imprisonment (involving compulsory labour), whenever the Ministry of Labour has decided to submit a dispute to compulsory arbitration; under section 17 of the Act, the Minister may, whenever he deems it necessary, refer the dispute to an arbitration tribunal whose award was final and without appeal.

The Committee has pointed out that the suspension of the right to strike enforced by sanctions involving compulsory labour is compatible with the Convention only in so far as it is necessary to cope with cases of force majeure in the strict sense of the term, namely when the existence of the population is endangered, provided that the duration of the prohibition is limited to the period of immediate necessity. The Committee also recalled that a system of compulsory arbitration, enforceable by penalties involving compulsory labour, must be limited to essential services in the strict sense of the term to be compatible with Article 1(d) of the Convention.

The Committee notes the Government's statement in its latest report that the Prison Regulations of 1976 abolished forced labour and that sentences involving imprisonment do not include forced or compulsory labour.

The Committee requests the Government to supply a copy of the Prison Regulations which are currently in force.

Thailand (ratification: 1969)

The Committee notes the information provided by the Government in its report and the discussion which took place in the Conference Committee in 1993.

Article 1(a) of the Convention. 1. The Committee noted previously that penalties of imprisonment may be imposed under sections 4, 5, 6 and 8 of the Anti-Communist Activities Act B.E. 2495 (1952) on anyone who engages in communist activities, or who conducts propaganda or makes any preparation with a view to carrying on communist activities, who is a member of any communist organization, or who attends any communist meeting unless he can prove that he did so in ignorance of its nature and object. Similarly, under sections 9, 12 and 13 to 17 of the same Act, inserted by the Anti-Communist Activities Act (No. 2) B.E. 2512 (1969), penalties of imprisonment may be imposed on whoever assists any communist organization or member of such organization in a variety of ways, who propagates communist ideology or principles leading to the approval of such ideology, or who contravenes restrictions imposed by the Government on movements, activities and liberties of persons in any area classified as a communist infiltration area.

The Committee notes the Government's indication that the Anti-Communist Activities Act of 1952 was adopted to protect the democratic system of the country suitable to its socio-economic development. The penalty of imprisonment in the Act was considered necessary to prevent any activity which would endanger the peace and security of the nation and the people; only those had been imprisoned who were proven to have been engaged in actions to bring about disasters to the nation or the people. The Government refers to two policy documents on combating and achieving victory over communists (Orders of the Office of the Prime Minister No. 66/2523 (1980) and 65/2525 (1982) adopted to eliminate conflicts between the pro-communist activists and the Government with a view to creating a peaceful situation in the country; as a result of these measures a great number of pro-communists surrendered; the Government provided them with help, and the number of pro-communists had decreased considerably.

While noting that the stated aim of these policies is to foster democracy, the Committee can only observe once more that the above-mentioned provisions are not limited in scope to the punishment of violence or incitement to violence, but may be used as a means of political coercion or as a punishment for holding or expressing, even peacefully, certain political views or views ideologically opposed to the established political, social or economic system, and are accordingly incompatible with Article 1(a) of the Convention in so far

as the penalties provided involve compulsory labour. The Committee expresses again the hope that the necessary measures will be adopted in this regard to ensure the observance of the Convention.

Article 1(c). 2. The Committee previously noted that sections 5, 6 and 7 of the Act for the Prevention of Desertion or Undue Absence from Merchant Ships, B.E. 2466 (1923), provides for the forcible conveyance of seamen on board ship to perform their duties.

The Committee noted the Government's indication that a committee to review seamen's legislation had been established.

The Committee notes the Government's indication in its report that, according to the Juridical Council, Act B.E. 2466 (1923) was never promulgated. The Government adds that the Committee referred to is the Committee to review the seafarers' legislation and its draft legislation is now pending consideration. Language problems have raised some confusion in this respect. The Committee also notes the indication by the Government representative to the Conference Committee that the Government would report on the reasons for the misunderstanding.

The Committee notes that the Act for the Prevention of Desertion or Undue Absence from Merchant Ships appears to have been promulgated on 31 August B.E. 2465 (1923); the Committee also notes that in previous information the Government has stated that the Act remained in force.

The Committee expresses the hope that the Government will take action in relation to the Act of 31 August B.E. 2465 (1923) and provide information on measures adopted or envisaged to ensure that no forced or compulsory labour be imposed on a seaman as a means of labour discipline to perform his service.

3. The Committee noted previously that under sections 131 and 133 of the Labour Relations Act, B.E. 2518 (1975), penalties of imprisonment (involving compulsory labour) may be imposed on any employee who, even individually, violates or fails to comply with an agreement on terms of employment or a decision on a labour dispute under sections 18, paragraph (2), 22, paragraph (2), 23 to 25, 29, paragraph (4) or 35(4) of the Labour Relations Act. The Committee noted that sections 131 to 133 of the Labour Relations Act were incompatible with the Convention in so far as the scope of sanctions involving compulsory prison labour is not limited to acts and omissions that impair or are liable to endanger the operation of essential services, that is, services whose interruption would endanger the life, the personal safety or the health of the whole or part of the population, or which are committed either in the exercise of functions that are essential to safety or in circumstances where life or health are in danger. The Committee again expresses the hope that the Government will indicate the action taken or contemplated in this regard to ensure the observance of the Convention.

Article 1(d). 4. In its previous comments, the Committee noted that penalties of imprisonment may be imposed for participation in strikes under section 140 of the Labour Relations Act read together with section 35(2), and under section 139 read together with section 34(4), (5) and (6).

The Committee noted that the provisions referred to provide for binding awards or ministerial decisions in a wide range of

circumstances where their enforcement with penalties involving compulsory prison labour is contrary to Article 1(d) of the Convention.

The Committee noted the Government's indication that the penalty of imprisonment under section 35 was seldom used. The Committee accordingly again expresses the hope that the Government will indicate the measures taken or envisaged to bring legislation in this regard into conformity with the Convention.

5. The Committee previously noted that under section 117 of the Criminal Code participation in any strike with the purpose of changing the laws of the State, coercing the Government or intimidating the people was punishable with imprisonment. The Committee notes the Government's indication in its report that section 117 aims to ensure the security within the country; it is used in practice in respect of persons whose intentions are to overthrow the Government by unconstitutional means. The Government adds that nobody has been prosecuted under this section.

The Committee notes that section 116 of the Criminal Code relates to advocating change of laws or causing disorder or disaffection among the people, while section 117 addresses work stoppages. The Committee also notes a certain contradiction in the indications by the Government in relation to the practical application of section 117. The Committee consequently expresses the hope that the Government will continue to provide information on the application in practice of section 117, as well as on measures taken or contemplated in this connection to ensure the observance of the Convention.

6. The Committee noted previously that section 19 of the State Enterprise Labour Relations Act, enacted on 15 April 1991, provided that workers of state enterprises shall not in any case stage a strike or undertake any activity in the nature of a strike. Under section 45, paragraph 1, of the Act a person who violates this prohibition may be punished by imprisonment for a term up to one year; this penalty is doubled in the case of a person who "incites, or aids or abets the commission" of the offence under paragraph 1.

Referring to paragraph 123 of its 1979 General Survey on the Abolition of Forced Labour, the Committee recalled that the imposition of penalties of imprisonment involving compulsory labour would only be compatible with the Convention in the case of essential services in the strict sense of the term. The Committee requested the Government to provide information on the measures taken or envisaged to bring legislation into conformity with the Convention.

The Committee notes the Government's information in a communication of 27 September 1993 according to which the revised State Enterprise Labour Relations Act, examined by the Ministry of the Interior and the National Advisory Council for Labour Development, was approved by the Cabinet and is under consideration by the Office of the Juridical Council. After approval by that office it would be resubmitted for approval to the Cabinet and then submitted to Parliament. (GB.258/4/6, 291st Report of the Committee on Freedom of Association, paragraph 21.)

The Committee requests the Government to provide information on the measures taken in this regard and expresses the hope that provisions to be adopted will be in conformity with the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bahamas, Central African Republic, Dominica, Fiji, Guinea-Bissau, Iraq, Lebanon, Liberia, Nigeria, Saudi Arabia, Seychelles, Sudan, Thailand.

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Syrian Arab Republic (ratification: 1958)

Article 8, paragraph 3, of the Convention. Since 1964, the Committee has been drawing the Government's attention to the need to adopt measures in order to guarantee compensatory rest to workers who, under exceptions provided for in section 120 of the Labour Code, work on the weekly rest day. In its previous observation, the Committee noted the Government's indication that a new draft text giving effect to this provision of the Convention had been submitted to the Council of Ministers and was under examination with a view to its enactment. In its latest report, the Government indicated that, at the request of the Service Committee of the Council of Ministers, the above-mentioned text was redrafted and has once again been submitted to the Council of Ministers. The Committee trusts that the new text will be adopted in the very near future and that it will give full effect to this provision of the Convention. The Government is requested to indicate, in its next report, the progress made in this regard.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Ethiopia, Indonesia, Jordan, Lebanon, Morocco, Peru.

Convention No. 107: Indigenous and Tribal Populations, 1957

Bangladesh (ratification: 1972)

1. The Committee notes that, at the 80th Session of the International Labour Conference (June 1993), the Worker's group requested that the Conference Committee on the Application of Standards be able to examine the application of the Convention by Bangladesh at its 1994 Session. The Government has not communicated any further information.

2. The Committee notes that, since it last considered this question, there have been reports of another incident on 17 November

1993, in which a number of unarmed tribal civilians were killed at Naniachar, Rangamati District. It again expresses grave concern about the prevailing law and order situation in the Chittagong Hill Tracts region, and hopes that the Government will provide information on the present situation. The Committee must therefore repeat its previous observation which read as follows:

1. The Committee notes with interest the more detailed report communicated by the Government in reply to its previous comments, as well as other documentation including the Government's report to the United Nations Committee on the Elimination of Racial Discrimination, and the 1991 report of the Chittagong Hill Tracts Commission which has been submitted to the United Nations.

2. The Committee notes the Government's statement in reply to its previous observation that there is no continuing conflict in the Chittagong Hill Tracts (CHT) region of the country except for sporadic incidents attributable to armed gangs from neighbouring countries, and that both tribals and non-tribals are the victims. The Committee also notes the statement that the local law enforcement agencies take appropriate measures for the protection of the life and property of the inhabitants, and that the District Local Government Councils, functional since 18 February 1989 (Acts Nos. 19, 20 and 21 of 1989), have contributed to improving the law and order situation. It also notes that the reports of the District Local Government Councils will be sent in due time.

3. The Committee notes, however, that it continues to receive allegations from various sources, including information submitted to United Nations bodies, of persistent human rights violations in this region including detailed allegations that on 10 April 1992 the tribal village of Logang (about 600 houses) was destroyed by non-tribal settlers, civilian defence forces (Village Defence Party, VDP) and paramilitary forces (Ansars). Some reports state that hundreds of tribal villagers were killed and that the military took no preventive action. The Committee notes that an inquiry commission into the Logang incident concluded that those responsible were the non-tribal settlers and security forces, and that the number of persons killed was much lower. The Committee recalls its earlier recommendation to the Government to conduct impartial and thorough investigations of human rights violations, with tribal participation. The Committee emphasizes that it treats such reports with caution, but remains concerned that the life and property of the tribal population are not adequately safeguarded as prescribed by Convention No. 107 and provided in the Constitution of Bangladesh. The Committee would be grateful if the Government would provide information on the conditions under which the inquiry was conducted, the extent of tribal participation, measures of reparation which may have been made to the affected tribals, and any sanctions taken against the persons found to be responsible.

4. Legislation in force. The Committee recalls that in its previous observation it referred to the concerns of the tribal representatives over the possibility of repeal of the Chittagong Hill Tracts Regulations (No. 1 of 1900). The Committee notes from the Government's report the statement that the provisions of the Regulations regarding special rights and privileges enjoyed by tribals have been incorporated in the Hill District Local Government Council Acts (Acts Nos. 19, 20 and 21 of 1989) and in the Hill Districts (Repeal and Enforcement of Law and Special Provision) Act, 1989. Please indicate whether the 1989 Act has now come into force, and the mechanisms applicable to resolve any divergencies that may arise between the 1900 Regulations and the Act. Please also indicate whether the 1900 Regulations are still in force.

5. Articles 11 to 14 of the Convention: Power of the Local Government Councils to allocate land rights. The Committee recalls that in its previous observation it referred to information received from a non-governmental organization stating that the new local government structures would have the power to regulate the allocation of less than 10 per cent of the total area of the CHT; this would imply greatly reduced powers by the councils - which have a tribal majority - to control immigration into these areas. The Committee notes with interest the statement in the report that this information was not correct, and that the area under the control of the Local Government Councils, under section 64 of the Act, is over two-thirds of the total area (excluding forest land and reserved forest, as well as lakes, the size of which are said to have been overstated by the non-governmental sources). The Committee would be grateful for information on the allocation of lands actually made so far in the CHT since the District Councils took up their functions.

6. The Committee notes the information that the cadastral survey of land ownership and rights in the CHT is to be resumed in 1993. The Committee recalls that some 45,000 tribal people have taken refuge in India as a result of the continuing conflict in the CHT, of whom the Government states in its report some 28,413 have now returned to the region with an option to go back to their original homes or to resettle in villages. It also recalls that many thousands of non-tribals have been settled in the Hill Tracts area, often on the lands traditionally occupied by tribal families. The Committee expresses its concern that a cadastral survey which is conducted under these conditions might have adverse effects on the land rights of the tribal people. The Committee notes further that the cadastral survey was postponed at the request of the tribals in the context of the ongoing negotiations with the Jana Sanghati Samity (JSS), a political party of the tribal people. It therefore hopes that appropriate procedures will be established to resolve land claims by tribals for the recovery of traditional lands, whenever necessary, and that the refugees in India will be repatriated to their homes prior to conducting the cadastral survey in the CHT area.

7. Progress in achieving a negotiated settlement of the conflict and return of tribal refugees. The Committee notes from the report the statement that the Government's efforts have fostered confidence among the tribal population of the Government's intention to: (i) protect their fundamental human rights and distinct ethnic and cultural identity and existence; and (ii) to find a durable political solution to the problems in the region. The Committee notes, as mentioned above, the return to the CHT of many of the tribal refugees. The Committee notes from the report that there is a bilateral agreement between India and Bangladesh to arrange a speedy repatriation of the tribal population of the CHT. Please provide detailed information on the bilateral agreement, its present status, the number of tribals to be repatriated, and any measures taken or contemplated to involve the people concerned in the discussions.

8. Situation of other tribal populations of Bangladesh. In response to the Committee's repeated request for information on the measures taken by the Government in relation to other tribal groups in the country, besides those in the CHT area, the Government has referred to its 1989 report; however, as the Committee pointed out in its previous observation, that report does not contain the information requested. The Committee notes, however, that the question raised in the previous observation concerning a conflict between the Mandi tribal group and the Forest Department is under investigation. The Committee also notes from a report by the Minority Rights Group that several cases have been brought by the Koch tribal group of the Madhupur Forest against the Forest Department. Please provide details of any investigations of this nature which may be under way, as well as more detailed information on the present position of the tribal people outside the Chittagong Hill Tracts as requested previously.

9. The Committee is raising additional points in a request addressed directly to the Government.

Brazil (ratification: 1965)

The Committee notes with interest the Government's report and the attached documentation.

1. Recalling that the situation of the indigenous populations of the country - especially the Yanomani community in the northern part of the country - has been the subject of comments by the Committee for some years, and that the matter was also discussed in the Conference Committee in 1993, the Committee notes with concern the killing in July 1993 of some 70 members of the Yanomani community of Haximu, Roraima by independent gold miners (garimpeiros). The Committee notes from the report that efforts are being made to investigate the facts and to bring those responsible to justice. It hopes the Government will provide further information in its next report on the findings of the investigation, and any measures it may have taken as a result.

2. Noting the efforts to expel garimpeiros from indigenous territory, the Committee notes from the report, received in October 1993, that at that time over 4,000 garimpeiros had been expelled, and that some 500 remained. It also notes from the report that a lack of resources to maintain the operation has seriously impaired its effectiveness, after its initial significant results. The Committee, therefore, urges the Government to take immediate and sustained measures to enforce and strengthen the constraints on illegal entry into indigenous territories, and to provide information on the action taken in the next report.

3. The Committee recalls the concern it expressed in its previous observation over the virtual suspension of the Yanomani Health Plan due to lack of funding and other organizational problems. Noting that the health of the Yanomani and other indigenous communities has been adversely affected by the invasion of the garimpeiros, in particular by the environmental degradation caused by their mining activities, and that the affected population has limited access to regular health facilities, the Committee again urges the Government to take the necessary steps and to report on the action taken. It notes the information provided in this connection during the Conference Committee discussion, as well as in the Government's report, the latter indicating that lack of funding has resulted in a diminution in health care generally in indigenous areas.

4. The Committee also notes in this regard the Second National Conference on Health for Indigenous Peoples (25 to 27 November 1993) which formulated a new programme of action to provide effective health care to the indigenous populations, with indigenous participation. The Committee requests the Government to keep it informed of any measures taken as a result.

5. Recalling its previous comments on persistent reports of forced labour of members of the indigenous community imposed by the miners, the Committee notes that it continues to receive such reports, and that the Government, in its report, indicates it has received similar reports which could not be verified. Noting that investigations are under way, the Committee hopes that the Government will indicate in its next report any measures taken or contemplated as a result.

6. The Committee recalls that it had previously requested information on the review of the Government's policy towards the indigenous populations, now taking place. It notes from the information provided during the Conference that draft legislation has been submitted on several points which, *inter alia*, includes some fundamental principles from the Indigenous and Tribal Peoples Convention, 1989 (No. 169). It notes that the review of indigenous policy, including a possible revision of the provisions of the 1988 Constitution on these questions, is continuing and requests the Government to keep it informed of any developments in this connection.

7. The Committee is raising additional points in a request addressed directly to the Government.

India (ratification: 1958)

The Committee notes the Government's report for the period ending 30 June 1992, which was received in June 1993, as well as the information provided to the Conference Committee in 1993.

It notes the detailed discussions on the question of the Sardar Sarovar Dam and Power Project in the 1993 Conference Committee, during which the Conference Committee requested the Government to take urgent measures to bring its resettlement and rehabilitation policies for tribal people into line with the Convention.

Sardar Sarovar. The Committee notes the information provided by the Government in its report regarding this project. It recalls that this concerns the construction of a large hydroelectric dam and the consequent removal from their lands of some 100,000 people, including some 60,000 tribal people. The project was, until recently, being funded by the World Bank. The Committee also notes the statement that "in order to avoid further vitiation of the atmosphere, the Government of India decided to disengage from the World Bank and not to seek any further disbursement out of the outstanding portion of the credit/loan for the Sardar Sarovar project", and that it will complete construction work on its own. It notes further that in October 1992 the World Bank had agreed to continue support for the project contingent on the fulfilment of key criteria involving improvements in policies, organization, management, and the implementation of resettlement and rehabilitation programmes; tighter linkage between progress on resettlement and rehabilitation and dam construction; and strengthened environmental planning and monitoring of potential environmental impacts. The World Bank has indicated in a communiqué that many of the steps called for had been undertaken before the Government's decision, which the Government has also affirmed.

The Committee notes the Government's continuing efforts to rehabilitate and resettle the displaced tribal people, and that an independent commission was appointed in August 1993 to review the project. It notes the detailed statistical information in the report, also communicated to the Conference Committee, on the situation as at July 1992, according to which some persons had been resettled and certain lands had at that point been acquired and designated for resettlement purposes. The Government has also communicated detailed information on spending on rehabilitation. While this indicates that attention is being paid to the resettlement of displaced tribal communities, it is not clear from that information what proportion of displaced families have now been resettled, how many remain to be resettled, and under what conditions. The Committee hopes that the resettlement and rehabilitation measures implemented, or to be implemented in further stages of planned construction, will be done in a manner which complies with the requirements of the Convention. Please continue to supply information on the progress achieved, including future plans for resettlement of the "oustees". Please also include information on any reports the independent commission may have made.

The Committee recalls its previous observation concerning the recognition of rights to land which is "traditionally occupied" by tribal populations (Article 11 of the Convention). In referring to

the legal position of the tribal population who have long occupied land to which the Government has asserted title, the Committee concluded that the term "traditional occupation" would appear to include the kinds of land use for which no compensation was being given. In its latest report, the Government states that the rights of the traditional occupation of land have been fully acknowledged, but it has also indicated that standard amounts of land are being allocated to relocated tribals. The Committee hopes that the allocation of resettlement land will be based on that previously occupied by the displaced tribals, and requests the Government to continue to provide information in this regard.

Technical cooperation for tribal populations. The Committee notes with interest the establishment of the ILO's Inter-Regional Programme to Support Self-Reliance of Indigenous and Tribal Communities through Cooperatives and other Self-Help Organizations (INDISCO), with funding from the Danish International Development Agency (DANIDA). This programme, which operates in India and in the Philippines, is intended to develop pilot projects aimed at creating employment and income opportunities in close cooperation with the indigenous and tribal communities concerned. The Committee welcomes this initiative and notes also that other technical cooperation in India has been undertaken by the ILO for the benefit of tribal communities. It hopes that the Government will contact the Office for any further assistance that might be helpful in meeting the requirements of the Convention in relation to the comments the Committee has made.

[The Government is requested to provide detailed information for the period ending 30 June 1996.]

Paraguay (ratification: 1969)

1. The Committee notes that the Government has ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and that its first report on that Convention is due to be examined by the Committee at its next session.

2. The Committee notes that it has received from the Government, reports containing information on a number of legislative and administrative provisions intended to provide special safeguards to the indigenous communities in the country, among which the revised Constitution is significant.

3. Therefore, the Committee is raising the most urgent questions in the request it is addressing directly to the Government, and will consider the rest of the information when examining the Government's first report under Convention No. 169. It hopes that the Government will provide detailed information on any further

developments which may have taken place since the report on Convention No. 107 was sent.

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In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Brazil, El Salvador, India and Paraguay.

Convention No. 108: Seafarers' Identity Documents, 1958

Honduras (ratification: 1960)

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

In previous comments the Committee noted that the Ministry of Finance had been requested to have inserted in seafarers' identity documents the statement that they constitute seafarers' identity documents for the purpose of ILO Convention No. 108 (Article 4, paragraph 2). The insertion is provided for in Decree No. 462 of 1977. The Government again refers in its report to the official letter addressed to the Ministry of Finance. The Committee asks the Government to provide a specimen of the above identity document duly completed with the above-mentioned statement.

Liberia (ratification: 1981)

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

Article 4, paragraph 3(b), (c), (d) and (f), of the Convention. The Committee recalls that the seamen's identity and service document appears to contain no provision for the information required under the terms of this Article (date and place of birth, nationality, physical characteristics and, in the absence of signature, a thumbprint). It hopes that it will be possible to add these particulars and that the Government will give details.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Guinea-Bissau, Iraq, Tunisia and the United Kingdom.

Convention No. 110: Plantations, 1958 [and Protocol, 1982]

Guatemala (ratification: 1961)

Part X of the Convention: see the observation concerning Convention No. 87.

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

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

Algeria (ratification: 1969)

The Committee notes the information provided by the Government in its report in reply to its previous comments, in particular its explanation that, under the Constitution, the principle of non-discrimination laid down in section 17 of the Industrial Relations Act (No. 90-11 of 1990) is not only applied only at the time of recruitment, but also during the course of employment, in respect of promotion and in the determination of the employment relationship, as well as in conditions of work, employment and remuneration, as indicated in the text.

1. With reference to its previous comments concerning the fact that the national legislation does not prohibit discrimination in employment and occupation on the grounds of religion, the Committee notes that the Government repeats its previous statement that religion has never, in practice, given rise to discrimination. It adds that the Committee's observation was brought to the attention of all departments responsible for formulating the texts of laws and regulations, and that it will not fail to inform the Committee of any further developments in this matter. The Committee draws the Government's attention to paragraph 58 in fine of its 1988 General Survey on Equality in Employment and Occupation, in which it points out that "where provisions are adopted in order to give effect to the principle contained in the Convention, they should include all the grounds of discrimination laid down in Article 1, paragraph 1(a), of the Convention". The Committee therefore hopes that measures will be taken shortly to ensure that the national legislation includes religion among the prohibited grounds of discrimination in respect of employment and occupation and asks the Government to indicate in its next report any progress made in this respect.

2. The Committee is raising other points in a request addressed directly to the Government.

Angola (ratification: 1976)

The Committee notes the Government's reports. In particular, it notes the constitutional changes introduced by the adoption of Act No. 23/92 of 16 September 1992 to approve the revision of the Constitution, with the aim of pursuing and consolidating the partial reforms which had already been undertaken in March 1991 to establish a democratic and lawful State, and which repealed Act No. 12/91 of 6 May 1991.

1. Further to its previous comments, the Committee recalls that the constitutional provisions which establish the equality of citizens before the law without distinction do not refer to political opinion. The Committee notes with interest that Act No. 23/92 includes in section 18 "ideology" among the criteria in respect of which citizens are equal. The Committee understands that the term "ideology" applies to political opinion and it would be grateful if the Government would clarify in its next report whether the term "ideology" is used in the sense meant by the Convention, that is in relation to activities which express or demonstrate political opinions which are in accordance with or opposed to established political principles, whether these activities are of an individual or collective nature.

The Committee also notes that the General Labour Act of 1981 is currently being revised in order to reflect the liberal development in the country. It recalls that, in order to give effect to the Convention, it is necessary to protect the employment and occupation of individuals against any discrimination based on the criteria set forth in Article 1, paragraph 1(a), of the Convention. The Committee hopes that the Government will be able to describe the progress achieved in this respect in its next report.

2. With regard to access to education and training, and in respect of university courses and the orientation of education, the Committee recalls that the Government stated in a previous report that the substantial overall reforms which were under way also covered the education system. In its previous comments, the Committee noted that section 6(5)(e) of Decree No. 17/89 of 13 May 1989 issuing the statutes of the Agostinho Neto University provide that the University Council should ensure the political and ideological training of university administrative staff and graduates. It also noted that section 30 of Decree No. 55/89 of 20 September 1989 to approve the rules governing the university teaching staff provides that the duties of teachers should include assisting students in their political and ideological training. The Committee notes the Government's statement that the elimination of any reference to ideology in the Constitution and the fact that the MPLA-PT is no longer the party in power imply that any conflicting provision, such as that of Decree No. 17/89 above, is null and void. The Committee believes that amendments to the law would make it possible to eliminate any ambiguity in respect of political and ideological requirements affecting the education system. The Committee therefore trusts that the Government will be in a position to inform it in its next report of the legislative progress achieved in this respect.

3. The Committee is raising other points in a request addressed directly to the Government.

Austria (ratification: 1973)

1. The Committee notes with interest that, in reply to its previous observation concerning the measures taken by the Länder to give effect to the Equality of Treatment Act, 1979, in respect of agricultural and forestry workers, the Government points out that the following Länder have amended their labour legislation in this respect: Upper Austria, Tyrol, Vienna, Lower Austria, Salzburg, Carinthia (Kärnten) and Vorarlberg.

2. It also notes the comments of the Federal Chamber of Commerce which, with regard to the Equality of Treatment Act, calls for reports on the equality achieved in practice in enterprises to be submitted on a more regular basis. The Committee requests the Government to comment specifically on this point.

3. Further to its previous comments on the impact of the new provisions of the Equality of Treatment Act, and particularly with regard to the positive measures adopted and mediation activities available through the statutory bodies, the Committee notes with interest that the Equality of Treatment Committee has been transferred from the authority of the Ministry of Labour and Social Affairs to that of the Federal Chancellery (Federal Ministry of Women's Affairs) and continues to undertake a wide range of activities to promote equality of opportunity and treatment. The Committee requests the Government to continue supplying information of this type on the application of the Equality of Treatment Act.

4. The Committee notes from the Government's report that substantial amendments to the Equality of Treatment Act (with the intention, among other measures, of including sexual harassment as a form of discrimination, and the adoption of heavier penalties in the event of violations of the Act, including discriminatory advertisements of job vacancies) are currently being debated by the Parliament. It requests the Government to keep it informed of the progress achieved in respect of this draft amendment and to supply a copy of the text which is adopted.

5. It also notes the information contained in the report on an Equality of Treatment Bill for federal state employees (Bundesbedienstete) to prohibit any discrimination against women with respect to access to employment, promotion and other conditions of employment, and to promote special measures designed to increase the proportion of women staff to 50 per cent. It requests the Government to keep it informed of developments with regard to this Bill and to supply it with a copy of the text.

6. In this context, the Committee would be grateful if the Government would keep it informed of the progress achieved in the adoption of another Bill to amend the Act respecting the promotion of the labour market, in accordance with which special measures would be implemented respecting the employment of women with a view to eliminating any discrimination relating to the employment opportunities and treatment of women workers.

7. The Committee is addressing a request directly to the Government on other matters.

Brazil (ratification: 1965)

The Committee notes the Government's report and the attached statistics. It also notes the information supplied by a Government representative to the Conference in 1993 and the ensuing discussion.

It recalls that its previous comments related particularly to the following points:

- situations of discrimination in employment and in the distribution of income between men and women and between whites, blacks and mulattos;
- the requirement by many employers of certificates attesting to the sterilization of women who seek employment or wish to keep their jobs; and
- the absence of a national policy to promote equality of opportunity and treatment in employment.

The Committee notes that the Government recognizes the existence of serious situations of discrimination in the country and that it intends to take various measures to remedy the situation. It notes that, according to the Government, the problems referred to affect in particular the private sector and that gaps in the legislation favour discriminatory practices. The Committee notes that the Government is prepared to adopt an active policy to combat discrimination and to improve the law. It also notes that the Ministry of Labour's current action plan includes modernizing industrial relations, and in so doing eliminating all forms of discrimination in employment which still persist in the country.

1. With regard to discrimination on the basis of race and racial inequalities on the labour market and in employment, the Committee notes that, with reference to the information provided in 1992 by the Trade Union of Bank Employees of Florianopolis and Regiao and by the Unique Workers' Central (CUT), based on the statistics of the Centre for Research on Labour Relations and Inequalities (CEERT), a national commission to combat racial discrimination has been established by the CUT to eliminate discrimination, particularly at the workplace. The Committee regrets that the Government's report does not contain specific comments on the communications from these trade union organizations, but confines itself to referring once again to the constitutional and legal provisions which prohibit and punish racism and discrimination. However, it notes that the Government considers that, in order to improve the situation referred to in these communications, it is indispensable for the citizens to participate by denouncing violations of their rights in respect of equality in employment.

In this respect, the Committee draws the Government's attention to Article 3(b) of the Convention, under which each State which ratifies the Convention has an obligation to promote educational measures to secure the acceptance and observance of the national policy of equality set out in Article 2. The information and education of the public can be undertaken by specific programmes, such as those referred to in paragraphs 231 to 236 of the 1988 General Survey on Equality in Employment and Occupation, to which the Government is requested to refer. The Committee notes with interest that the CUT intends to request ILO assistance for the organization of

national seminars, workshops and meetings designed to spread awareness of the principles set out in the Convention. It hopes that such activities will be carried out and that the Government will take the necessary specific measures to encourage the information and education of the public in the field of discrimination.

2. With regard to the application of the Convention in respect of women and, in particular, the massive sterilization of Brazilian women resulting from the requirements of employers, the Committee notes that the Government recognizes the existence of a problem but that to its knowledge no complaint has been made. It also notes that during the discussion in the Conference, it was pointed out that, despite the progress made at the legislative level to protect women against discrimination, employers in Brazil continue to require certificates attesting to the sterilization of women and marriage certificates before recruiting them, and that requirements based on sex still exist for certain functions.

In its previous observation, the Committee noted Bill No. 229/91 which would prohibit employers from requiring a candidate to employment to present a medical certificate attesting to the fact that she is not pregnant or has been sterilized, an amendment to which (arising out of Bill No. 677/91 which would prohibit the gynaecological examination of female officials at the request of their employer or a person acting on the employer's behalf) prohibits employers from encouraging the practice of sterilization or other methods of birth control, which are the responsibility of the services provided by the State. The Committee notes that this Bill, concerning which the Reporter of the Commission for Labour, the Administration and the Public Service had issued a favourable opinion on 11 February 1992, is still under examination by this Commission of the Chamber of Deputies. Other draft legislation intended to impose severe sanctions on employers who follow this type of practice, to eliminate other discriminatory practices in respect of women and to encourage the employment of women (in particular, Bills Nos. 3032/92 and 127/92), are either under examination or are being formulated.

The Committee urges that the legal provisions referred to by the Government, which are indispensable to provide women with effective protection against any discrimination in employment or in access to employment, particularly with regard to their capacity to procreate, will be adopted without any delay. It requests the Government to inform it in its next report of developments in this respect and to forward copies of the legislative texts as soon as they are adopted.

3. The Committee notes from the statistics supplied with the report that substantial differences exist between the wages of men and women. The Committee notes that these inequalities are closely related to the general situation referred to in its comments. It would be grateful if the Government would indicate, in the context of Convention No. 100, which has also been ratified by Brazil, the measures which it intends to take in this field in order to promote the employment of women at all levels and remedy differences in the wages of men and women workers, which are often caused by the concentration of women workers in the lowest paid sectors and jobs.

4. With regard to the application of the laws and regulations which are in force, the Committee notes the statement made by the

Government concerning the difficulties involved in supervising and inquiring into violations of the law. It refers, by way of illustration, to a survey of discriminatory practices in the recruitment of women in enterprises in Sao Paulo, launched by the Ministry of Labour of that State at the initiative of a woman member of Parliament, which could not be undertaken due to a lack of any specific complaints. The Committee notes that, according to the Government, in most cases of discrimination the victims refuse to be identified out of fear of reprisals and also because they entertain doubts as to the effectiveness and impartiality of the public authorities. The Committee also notes the explanations provided by the Government concerning the gravity of the economic and social situation of the country.

The Committee notes with interest that, in part with a view to resolving this situation, the National Labour Council (CNTb) has been established and held its first meeting on 27 May 1993. It is a tripartite body responsible for matters relating to employment in the country and one of its tasks is to combat vigorously all forms of discrimination, on the grounds that the enjoyment of their rights by citizens is one of the priority objectives of the Ministry of Labour.

The Committee requests the Government to supply information with its next report on the activities of the CNTb and on the results in practice of its activities to eliminate any form of discrimination in employment in both law and practice. It hopes that the initiatives which have been taken by the Government to remedy inequalities based on sex and race will be followed by the adoption of a national policy to promote equality of opportunity and treatment and by an information campaign for the persons exposed to discriminatory practices and for employers who infringe the law (see point 1 above). The Committee draws the Government's attention to the General Survey referred to above and in particular to paragraphs 157 to 169. It trusts that in its next report the Government will supply information on the adoption of a national policy to promote equality of opportunity and treatment, in accordance with Article 2 of the Convention, and on any measure taken to give effect to the Convention.

Chile (ratification: 1971)

The Committee takes note of the Government's report and the information provided in response to its previous comments.

1. The Committee recalls that the workers' organization "Comando de Exonerados de Chile" alleged in 1991 that thousands of workers had been dismissed from their jobs for political reasons under the military dictatorship, and that the Government replied that a Bill had been submitted to the National Congress on 9 July 1991 to grant provisional benefits to workers dismissed for political reasons between 11 September 1973 and 10 March 1990 from jobs which were wholly or partly under state control. The Committee also recalls that the "Frente de Trabajadores Exonerados, Compañía Chilena de Tabacos S.A. y Chiletabacos S.A." requested in a communication of October 1992 that the scope of the Bill be extended to workers in the private sector who, although they were not dismissed through the intervention

of the public authorities, were forced to resign after harassment due to their political opinions. In its previous observation, the Committee noted with interest that discussions of this issue between the Government and the Comando de Exonerados de Chile led to an agreement on 6 June 1992. In addition, the "Syndicato de Trabajadores No. 7, Codelco Chile, Division el Teniente" submitted observations in February 1992 on the dismissal of workers, purportedly because of their political opinions, in response to which the Government referred to the Bill and the agreement of 6 June 1992.

The Committee notes with interest that the above-mentioned Bill was adopted on 5 August 1993 and became Act No. 19.234 under which provisional benefits will be granted to workers dismissed for political reasons between 11 September 1973 and 10 March 1990. The Committee notes that under section 3, the new Act applies to the public and semi-public sector and to autonomous enterprises in which the State has a holding of at least 50 per cent, and that it does not therefore apply to the private sector as was requested by the "Frente de Trabajadores Exonerados". The Committee would be grateful if in its next report the Government would provide information on the effect given in practice to this new Act.

2. With regard to the communication sent in October 1992 by the "Frente de Trabajadores Exonerados" and particularly its observations on the labour contracts terminated between September 1973 and March 1990 for political reasons (the allegations concern 41 people), the Committee notes that the Government has produced a list of 32 workers concerned (the documents of the nine others are no longer available) with explanations of the termination of the contracts on the basis of information provided by the enterprise, to the effect that the workers concerned either resigned voluntarily or were lawfully dismissed by the enterprise. The Committee also takes note of the individual documents appended to this information as evidence of the workers' consent, in which the worker signed a statement to the effect that he had received all entitlements due and would make no further claims. In six cases, appended to these documents are decisions of the Labour Tribunal concerning complaints of unwarranted dismissal (filed by the workers concerned after they had left the enterprise). In all six judgements, dated 1974, 1978 and 1984, the Tribunal found for the enterprise. In these circumstances, the Committee has no further comments to make on this point.

3. The Committee also notes the Government's reply to the additional observations of the "Syndicato de Trabajadores No. 7, Codelco Chile, Division el Teniente", transmitted in February 1993, concerning the early retirement of a number of workers and discrimination in respect of employment on grounds of age. The Government states that the measures in question were taken in accordance with a rationalization plan in order to improve the alignment of the human resources of the autonomous State enterprise, Codelco Chile, with the company's real needs, that prior consultations were held with the workers and their representatives concerning incentives to early retirement, and that due account was taken of the relevant provisions of laws and contracts. The Committee considers that no further comments are called for on this matter.

4. In its previous comments, the Committee asked the Government to repeal expressly the Decrees (Nos. 112 and 139 of 1973, Nos. 473 and 762 of 1974, and Nos. 1321 and 1412 of 1976) which grant broad discretionary powers to university rectors to terminate the contracts of certain teaching and administrative staff. The Committee notes that the Government repeats its earlier statements that the above Decrees were tacitly repealed and are without effect in that the universities of the country, in accordance with their own statutes, have independently issued their own regulations; and that the Government has transmitted the Committee's request to the Ministry of Education as it said it would in its previous report. The Committee notes that the Council of University Rectors considers that the decrees were tacitly repealed by the entry into force of Act No. 18.575 of December 1986 and Act No. 18.834 of September 1986, which govern conditions of employment in the public service, particularly job security, career development and procedures for termination of the employment relationship. In these circumstances, the Committee trusts that the Government will take the necessary measures to repeal explicitly the above Decrees so as to preclude any ambiguity in this matter.

The Committee also asked the Government to amend or repeal section 55 of Decree No. 153 of 1951 respecting the legal status of the University of Chile and section 35 of Decree No. 149 of 1951 regarding the Statutes of the University of Santiago to ensure that, in accordance with the Convention, no one may be denied access to or be expelled from universities or other educational establishments on grounds of political opinion, whether they be students, teachers or administrative staff. The Committee recalls that the Government has always maintained that no one may be expelled from an educational establishment for holding, demonstrating or expressing his or her political ideas, as this would be incompatible with the existing provisions of the Constitution and the law. The Committee therefore considers that there should be no major difficulty in taking the necessary legislative measures; it again asks the Government to take appropriate steps for the amendment or repeal of sections 55 and 35 of Decrees Nos. 153 and 149 in order to bring the legislation fully into conformity with the Convention.

The Committee asks the Government to supply information in its next report on progress made with regard to the changes in legislation referred to by the Committee in the two preceding paragraphs.

5. The Committee raises other matters in a request addressed directly to the Government.

Cuba (ratification: 1965)

The Committee notes the Government's report and the information therein in reply to its previous comments, and the annexes to the report.

1. With regard to students' accumulated school records ("expediente acumulativo del escolar"), the Committee notes that, following a Ministry of Education survey, it was recognized that these records should be simplified so that teaching can be geared to the

quality of education required. The Committee notes the ministerial circular adopted after the survey, on 6 February 1993, to provide teachers with guidelines on how to use student accumulated records. According to the Government, the elements of the records on which the Committee commented have now been withdrawn. The Committee asks the Government to provide a copy of the new model students' accumulated school record with its next report.

Conditions of employment

2. The Committee notes the adoption of Resolution No. 1 of 5 January 1993 (sent by the Government and received on 8 October 1993) repealing Resolution No. 590 of 11 December 1980 which listed certain "work merits and demerits" based on political factors, to be recorded in the worker's labour record; thus, information on workers' merits and demerits have now been withdrawn from labour records. In this respect, the Committee refers to the observation it is making under Convention No. 29.

3. The Committee recalls that the Latin American Central Organization of Workers (CLAT) alleged on 19 February 1992 that 14 university teachers were dismissed for having expressed their political opinions in accordance with their constitutional rights in an eight-point "declaration of principles" (calling for, amongst other things, observance of human rights in the country, the opening up of Cuban society by peaceful means, the independence of the universities, democratization of political life, and freedom of expression and conscience, particularly in universities) which they sent to their hierarchical superiors. The Committee notes the Government's reply that the inquiries carried out in this regard showed that the teachers in question no longer had the "essential qualities required for teaching" and that nine of them lodged appeals with the Minister for Higher Education, which were dismissed. The Committee would be grateful if the Government would state what it means by "essential qualities required for teaching" and under what legislation the teachers were dismissed, and if it would indicate what means of redress, other than appealing to the Minister in question, are available to these workers as a means of protection against all forms of discrimination on any of the grounds laid down in the Convention.

4. The Committee recalls that, according to Resolution No. 590 of 4 December 1986 regulating the system of inspection in education, teaching methods and results must be analysed (as regards both objectives and inspection methods) from the point of view of the Communist Party of Cuba (section 2) and must be assessed in the light of their political, ideological and scientific content (section 8). The Committee considered that these criteria could give rise to discrimination on grounds of political opinion in both (i) training of pupils and students; (ii) assessment of the work of teachers subject to inspection; and (iii) conditions of employment and the evaluation of the work of the inspectors themselves.

Furthermore, Legislative Decree No. 34 of 12 March 1980 which is based on the principle that "persons who are in contact with young people in the education process serve as an example in forming young persons as communists" allows the dismissal of members of the staff of

higher education and other educational institutions, and staff of any education establishment who come into direct contact with students for, amongst other things, "serious and manifest activities that are contrary to socialist morals and the ideological principles of society". The workers concerned are technicians, professors, teachers, administrative staff or staff of departments coming into direct contact with students and of teaching departments employing technical staff, even if they do not work in teaching establishments or educational institutions. In its previous observations, the Committee noted that the Government intended to amend these texts. It notes the Government's statement in its latest report that it intends to make these amendments in due course in order to bring the texts into line with the particularities of the various sectors and adapt them to present circumstances, and that when it does so account will be taken of the Committee's comments.

The Committee has also examined Resolution No. 2 of 20 December 1989 respecting the reinstatement of educational workers to whom Legislative Decree No. 34/80 applied. It notes that workers dismissed for one of the activities listed in Legislative Decree No. 34/80 may only be reinstated after completing five years' disciplinary work, during which they are excluded from the education sector.

The Committee considers that this legislation is drafted in very broad terms and could therefore give rise to practices which discriminate against any worker coming into contact with young people in the educational context, enforceable by penalties which exclude them from their employment for a long period. It considers that these provisions are not consistent with the principles of the Convention and points out that they would only be in line with the Convention if they dealt with qualification requirements for certain jobs involving special responsibilities. In paragraph 126 of its 1988 General Survey on Equality in Employment and Occupation, the Committee stressed that "Certain criteria may be brought to bear as inherent requirements of a particular job, but they may not be applied to all jobs in a given occupation or sector of activity, and especially in the public service". The Committee asks the Government to ensure that the above-mentioned texts are repealed in the near future, in conformity with Article 3(c) of the Convention. It trusts that the next report will contain information on progress made in this respect.

Evaluation of workers

5. The Committee recalls that section 3 of Resolution No. 50 of 21 September 1987 regulating the evaluation of the work of journalists, sets out parameters for evaluating the results of their work which include "the political, ideological, economic and social scope of the work performed" (subsection (b)). The Committee pointed out in its previous comments that the outcome of the evaluation affected the wage level of the workers in question since an evaluation that is not "positive" has the effect of lowering the worker's wage to the level below the current one (section 27). Furthermore, a "non-positive" biennial evaluation of the employment relationship of the person concerned can lead to dismissal (section 28). The Government indicated previously that the performance of journalists is

assessed solely on the basis of their qualifications and the results of their work, and in its latest report it merely takes note of the Committee's comments and undertakes to inform it of any amendment to the Resolution. In the Committee's view, provisions which refer to ideological and political factors may affect both access to and security of employment as well as conditions of work. Consequently, the Committee again asks the Government to remove the political and ideological elements from the criteria for the evaluation of journalists laid down in section 3(b) of Resolution No. 50/87 so that, in both law and practice, these workers are assessed on the basis of their qualifications and the results of their work. The Committee hopes that, in its next report, the Government will be able to provide information on the measures taken in this respect.

Access to training

6. Further to its previous comments, the Committee notes that the Government reiterates its earlier statements concerning admission to post-secondary or higher education and specifies that each resolution governing the admissions system applies only for one academic year. The Committee notes Resolution No. 1 of 11 February 1992 and observes that, as the Government points out in its report, the criteria set out in this text for admission to higher education refer to the candidates' qualifications which are ascertained by assessments based on a student's "academic index" which is determined by examinations. The Committee noted in its previous observation that, according to the Government, all information that was not linked to the education process would be withdrawn from the new model school records, and asked the Government to provide information on the role played in this respect by the students' collective and the trade union since the new records came into effect. The Committee again asks the Government to provide this information. Furthermore, it asks the Government to explain the nature of the consultations provided for in section 20 of Resolution No. 1/92 between the university authorities and, inter alia, the Communist Party of Cuba and the trade union and to indicate, in the context of these Resolutions, the criteria other than qualification criteria that are used to assess and, if the case arises, exclude a candidate.

Access to employment

7. With regard to the "personal verification form" containing information on a worker's moral attitude and social conduct, the Committee notes the Government's statement that the general inquiry into the internal rules of certain enterprises has shown that the moral qualities and social conduct required for recruitment are not different from requirements elsewhere, in any country or enterprise. The Government states that these requirements are a part of any normal employment relationship and are not among the criteria banned by the Convention. The Government states, however, that it plans to pursue the inquiry and to review the above-mentioned regulations so as to remove all ambiguity and ensure consistency with the principles of equality laid down in the Labour Code.

The Committee points out that under Article 1, paragraph 2, of the Convention, only distinctions, exclusions or preferences based on the requirements of a particular job are not deemed to be discrimination. Moreover, in the above-mentioned General Survey, the Committee recalls in paragraph 126 that, "although it may be admissible, in the case of certain higher posts which are directly concerned with implementing government policy, for the responsible authorities generally to bear in mind the political opinions of those concerned, the same is not true when conditions of a political nature are laid down for all kinds of public employment in general or for certain other professions". Consequently, the Committee draws the Government's attention to the fact that requirements that refer to moral qualities and social conduct could only be admissible if they were closely linked to the requirements of a specific post. The Committee hopes that the above-mentioned regulations will be reviewed in the near future and that the Government will be able to provide information in this respect in its next report.

8. The Committee notes that the Government repeats that Resolution No. 702 of 29 December 1981 of the Ministry of Education (which lays down political and ideological criteria for the assignment of graduates) was tacitly repealed by the adoption of Resolution No. 51 of 12 December 1988 regulating the implementation of employment policy, which, according to the Government's previous statements, is to be reviewed, the new text being under discussion on a tripartite basis. Since the draft regulations on employment policy define, amongst other things, the content of professional records, the Committee would be grateful if the Government would indicate in its next report the stage reached in the review and if it would provide a copy of the text as soon as it has been adopted.

9. With regard to posts in the administration of the State, the Committee notes that the ones which are controlled by the Communist Party of Cuba are those falling within the institutional structure established by Legislative Decree No. 67 of 1983 respecting the organization of the central administration of the State; the only posts involved are certain political and high-level offices (ministers, deputy ministers, presidents, vice-presidents and certain executive posts which each institution determines according to its specific requirements). The Committee refers to paragraph 126 of its General Survey, which it has already mentioned above, and recalls that requirements of a political nature must be restricted to certain high-level posts directly related to government policy in order to be consistent with the Convention. The Committee asks the Government to continue to provide information on any developments in this respect.

10. The Committee raises certain other points in a request addressed directly to the Government.

Ecuador (ratification: 1962)

The Committee notes the Government's report for the period ending 30 June 1992 and the information it contains in reply to the Committee's previous comments.

1. The Committee recalls that in the past the Government has several times stated its intention to establish equality between the sexes in the law. It recalls, in particular, that section 1 of the Regulations of 9 July 1984 (No. 609) provides that "the activities of the Ministry of Social Welfare shall be based on principles designed to encourage the promotion of women, the indigenous population and ethnic minorities" and that the Government mentioned a Bill on the legal equality of sexes in its report of 29 August 1984 to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW/C/5/Add.23). In this connection, the Committee noted with interest in its Observation of 1989 that amendments were being drafted to the following provisions to establish the legal equality of women in certain areas:

- regulation 17(b) of the Regulations of the Cooperative Act (promulgated in 1966 and updated in 1985), under which a married woman needs the authorization of her husband in order to become a member of a housing, agricultural or family vegetable garden cooperative;
- section 12 of the Commercial Code, under which married women need the authorization of their husbands in order to exercise commercial activities, and sections 66, 80 and 105 of the Code which prohibit both single and married women from entering the stock market or becoming stockbrokers or public auctioneers.

The Committee notes with regret from the Government's report that the Decision of Congress to amend regulation 17(b) has not yet been adopted, nor has the draft Legislative Decree to amend the above-mentioned sections of the Commercial Code, which was submitted to Congress at the beginning of 1990, been adopted. The Committee recalls that the Convention guarantees equal treatment for men and women in respect of access to all employment, and trusts that the legislative measures needed to amend the above-mentioned provisions which are inconsistent with the Convention, will be taken in the very near future. It would be grateful if the Government would provide a copy of the texts (Decision and Legislative Decree) as soon as they have been adopted.

2. The Committee raises other matters in a request addressed directly to the Government.

Egypt (ratification: 1960)

The Committee takes note of the Government's reports and the discussion at the 1993 Conference Committee on the matters raised in its previous observation.

1. The Committee notes that, in both its report and the discussion in the Conference Committee, the Government again stated that Presidential Decision No. 214 of 1978 is not inconsistent with Article 1 of the Convention, since it aims to combat all forms of fundamentalism and terrorism, which is allowed by Article 4 of the Convention. The Government refers to its previous replies and indicates that Egyptian legislation authorizes adhesion to any opinion, whether political or religious. What it does punish, the Government states, is the call to deny religions, the call to adhere

to certain abherrent opinions which are contrary to the fundamental principles of society, established in the Constitution or to exercise an activity which is prejudicial to the security of the State, and the call to use violent methods. The report specifies that anyone against whom a measure is taken in this respect may have recourse to the judiciary. The Government representative at the Conference also specified that only atheist propaganda and the use of violence are prohibited.

The Committee recalls that Presidential Decision No. 214 respecting the principles of the protection of the home front and social peace provides, amongst other things, that "anyone who is convicted of maintaining principles contrary to, or conflicting with, the divine laws may not hold a senior post in the public administration or the public sector, or publish articles in newspapers or perform work in any organ of information or perform any other work that may influence public opinion". Two laws issued under this text, namely Act No. 33 of 1978 respecting the protection of the home front and social peace and Act No. 95 of 1980 respecting the protection of values, contain similar provisions. The Committee notes that the Government representative at the Conference stated that these provisions were contrary to the Constitution and were not applied in practice. Although it is aware that Egypt has recently had to cope with increasing terrorism, the Committee is bound once again to stress that the above provisions should be brought into conformity with Article 1, paragraph 1(a), of the Convention, as regards both content and implementation, in respect of any exclusion or preference based on religion or the expression of opinions related to moral values. The Committee stresses once again that, in its 1988 General Survey on Equality in Employment and Occupation, it recalled in paragraph 127 that "criteria such as political opinion, national extraction and religion may be taken into account in connection with the inherent requirements of certain posts involving special responsibilities, but that if carried beyond certain limits, this practice comes into conflict with the provisions of the Convention". The Committee considers that the provisions of Presidential Decision No. 214 and those of the two Acts mentioned above go beyond what may be deemed to be in conformity with the Convention.

The Committee also refers to paragraph 135 of the above-mentioned General Survey, and recalls that the expression of opinions or religious, philosophical or political beliefs is not, in itself, a sufficient base for the application of the exception set out in Article 4 of the Convention for activities prejudicial to the security of the State, provided that no violent methods are advocated or used.

2. With regard to the inconsistency with the principles of the Convention of section 18 of Act No. 148 of 1980 respecting the power of the press (persons prohibited from exercising their political rights or from forming political parties, persons professing doctrines that reject divine laws and persons convicted by the Court of Moral Values may not publish or participate in the publication of newspapers, or own newspapers) and Act No. 33 mentioned above (which imposes restrictions, enforceable by disciplinary penalties, on members of the journalists' trade union in respect, in particular, of

the freedom to publish or disseminate through the press or any other information media articles that are prejudicial to the "democratic socialist regime of the State" or to "the socialist achievements of the workers and peasants"), the Committee notes the Government's indication in its report that these laws do not prohibit any group or person holding political or religious opinions from exercising the profession of journalist or expressing opinions through a journalist. The Government states that section 18 of Act No. 148 applies to persons against whom final decisions have been handed down, and may be considered to be part of the supplementary sanctions which are known in all penal legislation and which aim to ensure the integrity of the press.

The Committee recalls that these legal provisions are contrary to Article 1, paragraph 1(a), of the Convention in that they may give rise to discrimination based on political opinion and have the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation for the persons concerned. The Committee recalls that the Government representative stated in the Conference Committee in 1991 that section 18 of Act No. 148 would be repealed when the law of the press was revised and that, in a letter of 28 January 1992, the Government indicated that it was undertaking the revision of national legislation in order to bring it into conformity with international Conventions. The Committee regrets to note that the report contains no further information on the revision, and asks the Government to inform it of developments.

3. The Committee none the less notes with interest that section 4 of Act No. 33 of 1978 which bans persons who held public sector posts before the revolution of 23 July 1952 from joining a political party or from exercising political rights or activities, was declared unconstitutional by the Constitutional Court on 21 June 1986 (Case No. 56, judicial year VI; decision published in Official Gazette No. 27 of 3 July 1986).

4. With regard to the employment of women, the Committee notes that the Government recalls the provisions of the law which govern the employment of women. It notes the Government's indication in its report that women's participation in economic activity is increasing steadily and has reached over 70 per cent in certain branches of the food, ready-to-wear apparel and pharmaceuticals industries. The Government also points out that women participate regularly in many training courses in certain occupations suited to their skills and tastes, such as spinning and weaving, medical occupations and home economics, but have also entered courses in non-traditional areas such as smelting, electricity and carpentry. In this connection, the Committee again draws the Government's attention to the fact that this situation could be improved through the adoption of appropriate measures to guide girls towards training for jobs which are not so typically or traditionally female in order to promote the principle of equality. The Committee refers to the above-mentioned General Survey of 1988 in which it points out, that archaic attitudes and stereotypes as regards the distribution of "male" and "female" tasks are "at the origin of types of discrimination based on sex and all lead to the same result: the nullification or impairment of equality of opportunity and treatment. Occupational segregation according to sex,

which leads to the concentration of men and women in different occupations and sectors of activity, is to a large extent the product of these archaic and stereotyped concepts" (paragraphs 38 and 97).

The Committee would also appreciate further information on the Third Five-Year Plan for the Economic Development of Egypt which began on 1 July 1992, and particularly the Ministry's proposals to encourage women to remain at home, and the establishment of secondary schools to train women in household work, home-based production and small-scale projects (see ILO: Social and Labour Bulletin, Vol. 4/92, p. 447). The Committee draws the Government's attention to the potential long-term effects of such a policy. It points out that it considered in the 1988 General Survey that "The use of standards of general education that differentiate between men and women, as is the practice in some countries, very soon leads to discriminatory practices based on sex" (paragraph 78). The Committee again asks the Government to provide in its next report detailed information on specific measures taken to promote, in practice, equality between men and women in employment, for example through education, information and vocational training. In this connection, the Committee asks the Government to provide particulars of the vocational guidance criteria used to assess women's skills and tastes. Noting that the statistics provided by the Government show a male/female ratio of 2:1 in the occupational category called "scientific and technical", the Committee asks the Government to provide specific data on the number of women doctors and labour inspectors.

5. The Committee notes that, since 1990, the Government's reports have referred to the revision of certain laws respecting, in particular, fundamental freedoms, freedom of association and equality of opportunity and treatment in employment, and that the Government representative at the Conference stated that amendment of these aspects of the legislation required more time. The Committee expresses the firm hope that the Government will make the necessary amendments in the near future to Presidential Decision No. 214 of 1978, section 18 of Act No. 148 of 1980 respecting the power of the press, Act No. 33 of 1978 respecting the protection of the home front and social peace and Act No. 95 of 1980 respecting the protection of values, so as to bring national legislation and practice fully into conformity with the Convention.

6. The Committee is addressing a direct request to the Government concerning other points.

Germany (ratification: 1961)

The Committee notes the information supplied in the Government's report and appended documentation in reply to its previous observation and direct request.

Discrimination on the ground of
political opinion

Public officials from the former
German Democratic Republic (GDR)

1. The Committee recalls that the World Federation of Teachers' Unions (FISE) alleged that personnel in the public service education system in the former GDR had been arbitrarily dismissed from their teaching posts in violation of the Convention. From the documentation submitted by FISE detailing individual cases, it appeared that the officials in question had been dismissed or given notices of dismissal pursuant to the German Reunification Treaty, Chapter XIX, Section III, Annex I, paragraphs 4 or 5. The Committee further recalls that the Government had replied that these paragraphs established legal grounds for the dismissal of public servants of the former GDR. Paragraph 4 of the Treaty provides, inter alia, that ordinary termination of a work relationship in the public service is permissible if the worker does not meet the requirements, owing to inadequate specialist qualifications or personal unsuitability. Paragraph 5 provides that extraordinary termination of the work relationship is permissible based on serious reasons which exist when the worker: (1) has violated the principles of humanity or of the rule of law, especially the human rights guaranteed in the International Covenant on Civil and Political Rights or has violated the principles contained in the Universal Declaration of Human Rights; or (2) has been active for the former Ministry for State Security or the Department of National Security, and a continuation of the work relationship thereby appears unacceptable.

2. The Committee had observed that the broad bases for dismissals provided in paragraphs 4, in particular 4(1), and 5(1) and (2) did not appear to lay down sufficiently precise criteria to ensure that there was no discrimination on the ground of political opinion. It also observed that the dismissals of the public servants in question appeared to be based on their former membership or position in certain political parties or organizations, and not on any conduct falling within the scope of what should reasonably be considered as an inherent requirement of the profession of teaching. The Committee accordingly had previously requested the Government to re-examine its application of paragraphs 4 and 5 of Annex 1 to the Reunification Treaty in order to ensure that only such restrictions on employment in the public service would be maintained as correspond to the inherent requirements of the job. It also requested the Government to provide statistics regarding the number of public officials, including teachers, who have been dismissed from their posts in the new Länder following reunification, the criteria applied, the procedural protections available and the rights of appeal.

3. In its latest report, the Government denies that political opinion has played a role in the dismissal of teachers following reunification. According to the Government, teachers who were dismissed had proved themselves to be unsuitable for continued teaching because they actively contributed, in the former GDR, to supporting the unjust regime to the disadvantage of the children

entrusted to them, and to the disadvantage of their parents, in a way that exceeded their duties as public servants (for example: schools were intended to indoctrinate students; teachers had the task of assuring the future military generation; the school management had to give its opinion on applications made by parents for travel; the school management formed part of the reporting apparatus of the Ministry of State Security; teachers had to obtain information from the students about the political attitudes of their parents).

4. With respect to the application of paragraph 5 of Annex I to the Reunification Treaty, the Government emphasizes the extraordinary nature of the provision, and states that it may be implemented only for important reasons on the basis of proof in individual cases. As for the application of paragraph 4, the Government points out that the right of ordinary dismissal for, inter alia, deficient personal suitability, provided by this clause, ceased to have effect on 31 December 1993. According to the Government, prior "political incrimination" had been a reason for deeming a public official of the former GDR unsuitable under this section. In cases involving prior political incrimination, the Government considered that the more the person, by the assumption of certain functions, had identified himself with the unjust regime, the more incriminated he was, and the less reasonable it was for him to hold a position in the current administration.

5. The Government describes the practical implementation of paragraph 4 with reference to the new Land of Thuringia, including the guidelines issued on indicators of personal unsuitability for service as a teacher. According to the Government, in every case of ordinary or extraordinary dismissal, verification of the personal suitability for further employment, or that it is unreasonable to continue the employment, is determined by a hearing of the person concerned. The Government reports that, in the Land of Thuringia, it had to verify the suitability of a total of 36,000 teachers and educators from the former GDR after unification. Following several levels of hearings and personal interviews, 1,406 or 3.91 per cent were dismissed on account of personal unsuitability, under paragraph 4.

6. The Government reports that persons who have been dismissed have the right to bring their cases before the labour courts, the German Constitutional Court and the European Court of Human Rights. The Government also reported to the United Nations Committee on Economic, Social and Cultural Rights (UN document E/C.12/1993/SR.36, 7 December 1993) that, of the teachers who had been dismissed in Thuringia, 1,222 had appealed and 184 had accepted their dismissal. Of the appeals, 583 had been settled amicably, 87 had been retained and the remaining 736 cases were still pending. One hundred and forty individual cases concerning teachers and public servants have been accepted for consideration by the Federal Constitutional Court.

7. The Committee notes the 31 December 1993 expiration date of the right to dismiss under paragraph 4 of Annex I to the Reunification Treaty. It also notes that the majority of dismissals of public servants from the former GDR, including teachers, had been based on that provision. The Committee must once again refer to its previous comments on the imprecise criteria of paragraphs 4 and 5. In addition, it observes that the indicators contained in the guidelines

on how to apply the Treaty provisions in Thuringia also place an emphasis on the official's former position or organizational affiliations rather than on individual conduct. Thus, the Committee finds that use of the guidelines as criteria upon which to base dismissals would be insufficient to protect against discrimination based on political opinion. The Committee must stress the importance it places on objective judicial review available to the public officials. It hopes that such procedural protections will ensure that the dismissals which are affirmed in the public service are only those based on each individual's failure to meet the inherent requirements of the particular job, within the meaning of Article 1, paragraph 2, of the Convention. The Committee asks the Government to confirm that the right to dismiss under paragraph 4 has in fact lapsed, to confirm that the guidelines are no longer being used to determine suitability of teachers, to provide statistical information on the number of officials who have been dismissed in the new Länder other than Thuringia, and on the appeals filed against dismissals made under paragraph 4 of Annex I to the Reunification Treaty, and to supply copies of any court decisions or other rulings issued in such matters.

8. With respect to the continued application of paragraph 5 of Annex I to the Reunification Treaty, the Committee hopes that the Government will ensure that discrimination in dismissals and employment criteria based on political opinion does not occur in violation of Article 1, paragraph 1, of the Convention. It further hopes that only such restrictions on employment in the public service in the new Länder are maintained, as correspond to the inherent requirements of the job, within the meaning of Article 1, paragraph 2, or as can be justified under the terms of Article 4 of the Convention. The Committee requests the Government to keep it informed of any dismissals or refusals to hire based on the application of paragraph 5, in particular subsection 2, of any guidelines developed by the new Länder to implement the section, of the interpretation given to the provision concerning who has been active for the Minister of State Security, as well as of any court decisions in which the application of paragraph 5 has been challenged.

9. Concerning the old Länder in the western part of the country, the Committee notes that section I.2.1.3 of the Bavarian Government's Announcement of 3 December 1991 provides that no one is fit for public service who has violated the principles of humanity or rule of law, or who has been active for the Minister of State Security or the Office of National Security in the former GDR. The Committee notes the similarity of this provision to paragraph 5 of Annex I to the Reunification Treaty. It requests the Government to indicate the manner in which this provision is applied and the interpretation given to the phrase "who has been active for the Minister of State Security". It also requests the Government to indicate whether any other old Länder have adopted similar policies towards former GDR public officials and, if so, to provide the information requested above.

10. The Committee also notes that section II.1 of the Bavarian Announcement of 3 December 1991 provides that an applicant for public service must fill out the questionnaire in Appendix 2 and sign the declaration in Appendix 3. The Committee requests the Government to

supply copies of the questionnaire and the declaration and the list of the most important extremist organizations or extremist-influenced organizations, and of the most important mass or social organizations, of the former GDR up to 1989-90, to which the Announcement refers.

11. The Committee requests the Government to indicate any programmes of vocational training or retraining, or other measures to facilitate employment, which have been provided to those officials who have been dismissed from public service, as a result of the application of paragraphs 4 or 5 of the Annex to the Reunification Treaty, and the results of such programmes.

Duty of faithfulness

12. Recalling its previous comments concerning the follow-up to the recommendations of the 1987 Commission of Inquiry, the Committee notes that, while systematic inquiries concerning the loyalty of applicants for positions in the public service have been abolished in Baden-Württemberg and the Rhineland-Palatinate, public officials are still required to sign the declaration of loyalty. The Committee therefore continues to ask the Government to supply copies of any directives issued by the Länder or federal Government on this topic, and to supply information on any cases in which a public official has been dismissed or denied employment based on breach of the duty of faithfulness.

Equality irrespective of race and national extraction

13. Noting the information on the provision of vocational guidance and training for foreigners, the Committee again requests the Government to provide information on the policies, programmes or other measures taken or contemplated with a view to eliminating discrimination and promoting equality of opportunity and treatment of all persons in employment and occupation irrespective of race, colour or national extraction. It would also welcome information on any measures taken to foster understanding and tolerance among the various ethnic groups of the population.

Equality between men and women

14. The Committee notes with interest the adoption, on 13 July 1993, of the Act on Uniformization and Flexibilization of the Legislation on Working Time (the Working Time Act), which provides for the promulgation of new regulations to replace the prohibition of, and the restriction on, the employment of women in various jobs and sectors, such as in the building industry and on vehicles. It hopes that the new regulations will fully apply the principle of equality of opportunity and treatment, and that any special measures of protection will be adopted after consultation with the representative employers' and workers' groups in accordance with Article 5 of the Convention. The Committee asks the Government to provide information on the contents of such regulations, and to supply copies once they are issued.

15. The Committee notes with interest that commissioners for women's affairs have been appointed in all the highest federal administrations. It would be grateful if the Government would provide information on the duties and activities of these commissioners and an assessment of the impact of their work in relation to promoting the principle contained in the Convention.

16. From the detailed information supplied by the Government, the Committee notes the efforts undertaken in the fields of education, training, occupation and employment to help broaden the spectrum of occupational choice for women workers in both the new and the old Länder. It also notes, however, that in spite of these efforts, the supply of training posts in undertakings lags behind demand, particularly for young women in the new Länder. The Committee requests the Government to continue to provide information, including statistical data comparable by Länder, if possible, on the various measures taken to promote equal opportunity for women in employment through vocational guidance, training and placement, and in particular on the various measures taken to assist young women in the new Länder to obtain training posts.

17. Noting that several drafts of a law to achieve equality between men and women have been prepared, the Committee requests the Government to indicate whether this law has been adopted and, if so, to supply a copy of the text with its next report.

Honduras (ratification: 1960)

With reference to its previous comments concerning section 79(a) of the Agricultural Reform Act of 30 December 1974, the Committee notes with satisfaction the amendment of this provision by section 64 of Decree No. 31-92 of 5 March 1992 issuing the Agricultural Modernization Act. This amendment permits women, irrespective of whether they are married or single, with or without family responsibilities, to benefit on an equal footing with men from the assignment of land within the context of the agrarian reform.

The Committee is raising other points in a request addressed directly to the Government.

Iceland (ratification: 1963)

The Committee notes the detailed information and statistics provided by the Government in response to its previous observation concerning the practical application of the Act on Equal Status and Equal Rights for Women and Men, No. 28 of 1991, as well as the explanations on the Government's second Four-Year Plan of Action on Measures to Achieve Equality between the Sexes (1991-94).

The Committee is addressing a direct request to the Government on, inter alia, the findings of the Equal Status Council's interim report on the equal opportunity programmes of government ministries and state institutions (which reveal that equality in employment between the sexes has been prevented to a large extent by circumstances claimed to be beyond the control of the institutions

such as women's and men's traditional educational and occupational choices).

India (ratification: 1960)

With reference to its previous comments, the Committee notes with interest the information supplied in the Government's report for the period 1990-92, in particular the copy of the Supreme Court's decision of 16 November 1992 in Indira Sawhney and others v. Union of India and others.

1. This case concerns the elimination of discrimination in employment on the basis of social origin. The Committee had previously requested the Government to keep it informed of the implementation of the 1980 recommendation of the Mandal Commission to reserve 27 per cent of jobs in the public service for disadvantaged classes (as distinct from Scheduled Castes and Scheduled Tribes). The Government reports that the Mandal Commission Report was discussed in Parliament in 1982 and 1983 and action taken on this particular recommendation with the issuance of a Central Government Memorandum on 13 August 1990, which specifically ordered reservation of 27 per cent of the vacancies in government posts for the socially and educationally backward classes (SEBCs) and of a second Memorandum on 25 September 1991 amending the earlier one so as to allow preference to be given to candidates belonging to the poorer sections of the SEBCs. The challenge to the constitutionality of the 1990 Memorandum was not upheld by the Supreme Court. The Committee notes from the judgement that the reservation is to be put into operation except for the socially advanced persons, known as the "creamy layer" (an expert committee shall be established to specify the scope of the "creamy layer") and that a permanent statutory body shall be constituted to examine complaints concerning inclusion in the lists as other backward classes. The Court itself stated that an economic criterion can be adopted as an indicium for determining the "creamy layer".

2. The Committee notes from the Government's report that the expert committee to examine the exclusion of the "creamy layer" was duly constituted and submitted its report on 10 March 1993, which the Government accepted. According to the Government, further action towards making reservations in government service in accordance with the Supreme Court's decision is under way. The Committee requests the Government to inform it of the action taken to implement the Supreme Court's decision, including details on the expert committee's findings on the "creamy layer".

3. The Committee is addressing a direct request to the Government on other points.

Iraq (ratification: 1959)

The Committee notes the Government's report and the information supplied by the Government representative to the Conference Committee in 1993 concerning the points raised in its previous observation, and the subsequent debate on the application of the Convention.

1. The Committee had requested information on the pursuit of a national policy designed to promote equality of opportunity and treatment, as set out in Article 2 of the Convention, in respect of citizens belonging to ethnic and linguistic minorities of the country, such as the Turkoman and Kurdish minorities - a point which was also discussed by the United Nations Committee on the Elimination of Racial Discrimination in 1988. It notes that the Government representative reiterated the previous statements by the Government concerning the provisions of the Constitution of 1970 and the labour legislation and emphasized that they protected all citizens against discrimination in employment and occupation and guaranteed equality of rights in respect of education, employment and working conditions. The Committee notes that he specified that equality also applied to vocational training and promotion opportunities and stated that working women accounted for 39 per cent of the labour force. With regard to national minorities, such as the Turkoman and Kurdish minorities, according to the Government representative, the legislation makes no distinction on the basis of social origin and Act No. 33 on the self-administration of Kurdish regions established a number of rights for these minority populations which guaranteed them equality of opportunity with other citizens.

While noting that the Conference Committee expressed its deep concern with regard to these minorities and requested the Government to provide information on their situation in practice with regard to equality of opportunity and treatment, the Committee refers to Chapter IV of its 1988 General Survey on Equality in Employment and Occupation, and in particular to paragraphs 158 and 159. It draws the Government's attention to the fact that Article 2 of the Convention calls for the declaration and pursuit of a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation and that, in order to give effect to the Convention, the legislative provisions which are in force have to be accompanied by clearly stated practical measures to implement the principles of equality. The Committee once again requests the Government to supply detailed information on the adoption and implementation of a national policy to promote equality of opportunity and treatment in respect of employment and in particular on its application to the Turkoman and Kurdish minorities.

2. The Committee notes that, in reply to comments which it has been making in direct requests for several years concerning the prohibition of the employment of women in certain positions (section 1 of Resolution No. 480 of 1989), the Government states that no job is prohibited to women by the law and that women enjoy equality of opportunity with men in respect of employment, also as regards managerial positions in state services, in which they account for 34.9 per cent of all staff. The Committee once again requests the Government to supply practical information on the effect given to this Resolution, which governs the employment of graduates in certain sectors and their wages during the one-year compulsory training period for the nursing profession, and to indicate in particular whether the training which is required for nurses is related to the qualifications which have been obtained and the positions to which the women are appointed. Furthermore, the Committee once again asks the Government

to specify the number of women holding positions of responsibility in the public sector, their proportion in comparison to men and statistical tables on their grades.

3. Having noted that for several years it has been requesting detailed information on access to vocational training without distinction on the basis of sex, the Committee once again requests the Government to supply in its next report data on the training courses organized by the General Federation of Iraqi Women to integrate women into the labour market (indicating in particular the type of training provided, the number of students and the distribution of men and women) and the corresponding results achieved in practice with regard to the employment of women.

Malta (ratification: 1968)

1. Referring to its previous observations, the Committee notes the information supplied by the Government in the 1992 Annual Report of the Secretariat for the Equal Status of Women on the measures taken, in pursuance of the constitutional right to equality between men and women, to promote equality of opportunity and treatment in employment, such as: the identification of discriminatory laws or practices; strengthening of public sector focal points on gender equality; adoption of policies in the public sector ensuring equal conditions of work and encouraging the appointment of more women to government boards and bodies; removal of gender inequalities in the education system; efforts to increase female participation in adult education and varied training programmes; and awareness-raising campaigns for the general public or particular target groups such as teachers.

2. The Committee is pursuing in a direct request its previous request for information on the activities and recommendations of the Commission for the Advancement of Women and the Secretariat for the Equal Status of Women, in particular the results achieved by these specialized bodies.

Mauritania (ratification: 1963)

The Committee notes the information provided by the Government in its reports in answer to its previous observations, and the discussion that took place at the Conference Committee in 1993.

1. The Committee refers to its previous comments on the implementation of the recommendations of the Committee set up by the ILO Governing Body to examine the representation made by the National Confederation of Workers of Senegal, under article 24 of the ILO Constitution, concerning in particular the measures to be taken by the Government to ensure adequate compensation for Mauritanian nationals whose employment was adversely affected as a result of their being displaced during the conflict with Senegal. The Committee notes the Government's statement that, at its November 1993 meeting, the Joint Mauritanian-Senegalese Committee decided that the bodies responsible for payment of pension orders and wages in arrears will receive

instructions for settlement of the entitlements of the persons concerned without delay for the period that has elapsed since April 1989.

The Committee asks the Government to provide detailed information in its next report (including statistics) on the measures taken, indicating the results obtained, to implement the decision of the above-mentioned joint committee. It also notes from the report that the persons concerned have access to all legal means of redress to enforce their rights, and asks the Government to indicate the means of redress available to such persons in practice, and the number and nature of the appeals actually lodged with the competent authorities or courts, and to provide copies of the resulting reports and decisions.

2. The Committee also asks the Government to refer to its comments on the application of the Convention which it is making in a direct request.

Norway (ratification: 1959)

The Committee notes the Government's report for the period ending 30 June 1992 and the comments of the Confederation of Norwegian Business and Industry (NHO) on the application of the Convention which were transmitted by the Government.

1. The Committee notes that, according to the NHO, reported differences in male and female wages should be viewed in the light of wages paid in positions held mainly by men and in positions held mainly by women rather than as differentials in male and female pay for the same job, which is not a problem in Norway. The NHO considers that the real problem is that positions employing mainly women pay lower wages than jobs where mainly men work and that women may experience more obstacles than men in advancing to higher positions. The Government reports that, despite the large increase of women in employment (slightly less than half the workforce in the first half of 1992 being female), and the fact that the proportion of women studying typically male-dominated subjects has risen, occupational segregation continues. The Committee welcomes the Government's efforts to overcome this, for example through the measures taken by the labour market services to help widen women's choice of occupation, the appointment of special labour advisory officers to all county employment offices, the JOB-PROFILE project and the continuation of other measures already notified in earlier government reports. It asks the Government to supply information on the results obtained by these measures in bringing equality to the gender-divided labour market and, in particular, to indicate any developments in this connection arising from the government White Paper on equality between the sexes described in the annex to the Government's report. It also refers in this connection to the observation made this year under Convention No. 100.

2. Regarding the effect given to the 1983 recommendation of the committee set up under article 24 of the ILO Constitution, which had requested measures to be taken to remove any inconsistency between section 55A of the Worker Protection and Working Environment Act, No.

45/1977 and Article 1, paragraph 2, of the Convention, the Committee notes that the parliamentary committee created to examine the relationship between the two provisions decided, in 1992, that no contradiction between them existed. The parliamentary committee asked that the question of the amendment of section 55A be taken up again if it should appear that it conflicts with the Convention.

The Committee recalls the obligation of member States of the ILO under article 19(5)(d) of the Constitution to "take such action as may be necessary to make effective the provisions" of a ratified Convention. This is an obligation to make the provisions of the Convention effective in law and in fact. It is therefore necessary, but not sufficient that the provisions of the law should comply with the requirements of the Convention. It is equally important that the provisions of the law should be fully and strictly applied in practice. In the present case, the Committee recalls that, under Article 1, paragraph 2, of the Convention, certain criteria may be brought to bear as inherent requirements of a particular job, but they may not be applied to all jobs in a given occupation or sector of activity. Thus, as pointed out in paragraph 126 of the 1988 General Survey on Equality in Employment and Occupation, systematic application of requirements involving one or more of the grounds of discrimination envisaged by the Convention, to a category of persons defined by their status or employment in an enterprise, irrespective of the aptitude of those persons to carry out the tasks assigned to them, does not correspond to the inherent requirements of a particular job. In paragraph 127 of the General Survey it was emphasized that criteria such as political opinion, national extraction and religion may be taken into account in connection with the inherent requirements of certain posts involving special responsibilities, but that if carried beyond certain limits, this practice comes into conflict with the provisions of the Convention.

The Committee accordingly urges the Government to keep section 55A under review in the light of the 1983 recommendation that it be worded, interpreted and applied in such a manner as to be in conformity with the Convention and, in particular, so that it does not permit discrimination on the grounds of race, colour, sex, religion, political opinion, national extraction or social origin except "in respect of a particular job based on the inherent requirements thereof", as required by Article 1, paragraph 2, of the Convention. The Committee requests the Government to provide information in its next report on any developments in this respect.

3. The Committee is addressing a direct request to the Government on certain other points.

Pakistan (ratification: 1961)

The Committee notes that the Government's report has not been received. It notes the information supplied by the Government representative and the discussions which took place in the Conference Committee in 1993. It also notes the comments of the Pakistan National Federation of Trade Unions (PNFTU) and the All Pakistan

Federation of Trade Unions (APFTU), which were transmitted to the Government in October and November 1993 respectively.

1. The Committee notes that, according to the PNFTU, the Government should consider seriously the outstanding comments on the application of the Convention and take appropriate action in line with the spirit of the Convention. It also notes the APFTU's comment that, while the national Constitution prohibits discrimination on the grounds of race, colour and creed, the Government has been urged by the trade union movement to eliminate discrimination on the basis of religion and to do more to raise awareness among all sectors of society on the need for equal opportunities for employment, particularly for women workers; it also notes the APFTU's reference to the Government's recent creation of a Commission on Minorities for their social and economic improvement. The Government has not transmitted its comments on these communications. The Committee recalls that it is still awaiting a reply from the Government to the APFTU's comment dated January 1993 on the proposed exclusion of newly established Special Industrial Zones from the labour legislation, thus excluding them from the protection afforded by this Convention. It accordingly expresses the firm hope that the Government will provide replies on these issues in its next report so that the Committee will be in a position to examine them at its next session.

2. As regards the Anti-Islamic Activities of the Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984 (No. XX) the provisions of which permit the imprisonment of members of the religious groups concerned for, inter alia, propagating their faith, and which thus have a direct bearing on their employment opportunities, the Committee notes the Government representative's statement to the Conference Committee that the Ordinance does not affect the employment and education of members of the Ahmadi/Quadiani community as there was no question of dismissal of any member of this community from service on the basis of religion, and that this was ensured by the provisions of the Constitution and the Penal Code. Observing that the Government has repeatedly referred to these statutory provisions in the past discussion of this issue, the Committee cannot but regret that there have been no new developments towards the amendment of Ordinance No. XX, which clearly affects members of religious groups in employment on the basis of their religion, contrary to Article 1, paragraph 1(a), of the Convention. It urges the Government to take measures to bring the legislation into conformity with the Convention and recalls that the technical assistance of the Office is at the Government's disposal on this point.

3. Noting the statement of the Government representative to the Conference Committee that information on the number and percentage of Ahmadis/Quadianis serving in the armed forces and the number of dismissals was not collected on the basis of religion and therefore was not available, the Committee is obliged to repeat the principle of non-discrimination on religion laid down in the Convention. It hopes that future reports will contain indications of any cases of dismissals in the armed forces and the public service in general that are challenged on the basis of allegedly discriminatory reasons underlying that administrative action.

4. Noting that the Government representative at the Conference Committee suggested that the question of the non-issue of passports to a Muslim if the applicant does not declare in writing that the founder of the Ahmadiyya movement in Islam was a liar and an imposter "might be the subject of advice from ILO technical assistance", the Committee trusts that the Government's next report will indicate whether it wishes to avail itself of such assistance, as it recently has, for instance, in the context of Convention No. 87.

5. The Committee hopes that a report will be provided for examination at its next session and that the Government will make every effort to take the necessary action on all the points outlined above in the very near future.

6. The Committee is addressing a direct request to the Government on other matters.

Paraguay (ratification: 1967)

The Committee notes the information supplied by the Government. The Committee also notes the tripartite consultations which were held in the context of the technical assistance provided by the ILO to the Government for the revision of the Labour Code, which was adopted in October 1993.

1. In previous comments, the Committee referred to section 34 of Act No. 200 of 17 July 1970 establishing the Public Employees' Statute, according to which no public employee may engage in activities contrary to the public order or to the democratic system established by the national Constitution, under penalty of serious disciplinary sanctions. The Committee notes the Government's statement that the emergence of a new democratic regime has made it possible to bring an end to decades of authoritarianism, dictatorship and denial of human rights, and that the new national Constitution of July 1992, in view of its supremacy over other legal texts, repealed Act No. 200 in practice. While noting that, for lack of time, the Congress has not been able to examine the legislative reforms needed for the democratic transition, the Committee recalls that section 34 above is contrary to the principles of the Convention, since it permits the authorities to practice discrimination in employment on the ground of political opinion (Article 1, paragraph 1(a), of the Convention). The Committee trusts that the Government will be able to report progress in this respect in its next report. It requests the Government to transmit copies of any legal text which affects the implementation of the Convention and, in particular, to report on the progress achieved in the amendment of the Penal Code, some provisions of which provide for sanctions on political grounds in the case of certain categories of workers.

2. The Committee also raised the question of the limitations established by Act No. 294 of 17 October 1955 respecting the defence of democracy, on the freedom of political opinion of persons working in the public sector or in enterprises which are assimilated to the public sector, which was specifically repealed on 4 September 1989 by Act No. 09/89. The Committee would be grateful if the Government would indicate how, under these conditions, it fully guarantees in

practice the freedom of opinion of all categories of workers and how it provides them with protection against any discrimination in employment based on this criterion.

3. Furthermore, the Committee draws the Government's attention to Article 2 of the Convention, in accordance with which the member State is bound to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment, with a view to eliminating any discrimination in respect thereof. The Committee requests the Government to refer to Chapter IV of its 1988 General Survey on Equality in Employment and Occupation concerning the implementation of the principles set out in the Convention. In particular, paragraphs 158 to 169 give precise indications on the formulation of this policy. The Committee would be grateful if the Government would supply information in its next report on any progress achieved in this respect.

Romania (ratification: 1973)

The Committee notes the Government's reports and appended documentation as well as the information supplied by the Government to the Conference Committee in 1993 and the ensuing discussion.

Discrimination on the grounds of national extraction, race and social origin

1. The Committee recalls that the 1991 Commission of Inquiry had observed that the Roma minority, and to a lesser extent the Magyar minority, are the two groups against whom discrimination was systematically practised. In its previous comments, the Committee had welcomed a series of constitutional, legislative and policy measures that had been taken to improve the status of these two groups, but at the same time it had underlined the importance of their application in practice. It notes, nevertheless, that the treatment of these minorities continues to be the subject of debate in the United Nations Human Rights Committee monitoring observance of the International Covenant on Civil and Political rights (UN document CPR/2/58/Add.15) and that the Government itself refers in its latest report to violence against Roma in the village of Hadarein in September 1993 and the measures it took in response.

2. The Committee notes with interest the establishment, by Decision No. 137 of 6 April 1993, of the Council for National Minorities, which is to monitor specific problems of persons belonging to national minorities and to have competence over the legislative, administrative and financial aspects of such matters. The Committee would be grateful if the Government would indicate the various minorities which meet the criteria, set out in section 2 of the Decision, to be represented and participate in the work of the Council. Please also supply information on any decisions, activities or research undertaken by the Council, on the problems related to employment and occupation which have been identified by it, and on any actions which the Council has proposed to be taken to improve the situation of minorities in this regard. The Committee also asks for

information on the proposed Foundation for the National Minorities of Romania, referred to by the Government.

3. As regards the situation of the Roma minority, the Committee notes the Government's statement that no standards prevent access to education or discriminate in any way against this group. However, 22.3 per cent of Roma men and 70.8 per cent of Roma women are reported by the Government to be without employment, and 79.4 per cent of the adult Roma population are considered by the Government to be unqualified. The information available to the Committee, including information from UNICEF, also shows that an increasing percentage of Roma children are not attending school.

4. The Committee thus notes with interest the measures taken by the Government to promote a better integration of the Romas so that they may fully exercise their rights, including: the establishment of minority councils (see above), the creation of a programme for the social promotion and the resolution of labour problems of Romas; the preparation of a draft Act to implement this programme; the establishment of the Roma Centre for Social Intervention and Studies; training of Roma students to be teachers in the Roma community; reservation of places in certain courses at the University of Bucharest; publication for the first time of a book for use in schools on the Romani language; and efforts to establish a place for Romas in Bucharest to deal with their daily problems.

5. The Committee would be grateful if the Government would provide information in its next report on the outcome of these initiatives, as well as any new steps taken, particularly in regard to increasing access and opportunities in education, vocational training and employment for members of the Roma population. It again requests the Government to supply a copy of Government Decision No. 461 referred to in the Government's previous report.

6. The Committee also notes the Government's intention to organize two working groups with Roma labour inspectors to evaluate the results of their work and to analyse possible financing of small private enterprises for the Roma. It would be grateful if the Government would indicate in its next report the outcome of these meetings and the establishment of any such small enterprises.

7. With respect to the Magyar ethnic minority, the Committee notes from the information supplied by the Government that educational and training activity in the Hungarian mother tongue has increased in the school year 1992-93. It requests the Government to continue to supply information on the concrete aspects of the programmes and measures being taken to provide education, vocational training and employment for the Magyar population.

Measures of redress

8. The Committee notes Decree No. 118 of 9 April 1990, as amended, which entitles persons, who had been unable to work due to incarceration or persecution for political reasons from 6 March 1945 onwards, to be compensated in terms of years of seniority for purposes of calculating pension and other benefits. Referring to the Commission of Inquiry's Recommendation No. 20 and its previous observations, the Committee again requests the Government to provide

information on the results achieved as regards actual reparations made under this law, as well as under section 16 of Act No. 18/1991 respecting land ownership.

9. The Committee again requests the Government to provide the information previously requested on the measures taken to give effect to the following recommendations made by the Commission of Inquiry: Recommendations No. 4 (effect of past discrimination); No. 6 (concerning the Government's guarantee of an efficient and impartial follow-up to the requests for medical examination made by the persons who went on strike and had been rehabilitated by the courts); and No. 7 (the reinstatement of workers who had lost their jobs as a result of being arrested for the June 1990 demonstrations).

10. The Committee recalls the Government's previous indication that it would distribute copies of the 1991 report of the Commission of Inquiry to the national workers' and employers' organizations, and to other institutions. The Committee wishes to stress the importance it places on this point. It once again expresses the hope that the Government will be in a position in the very near future to give assurances that it has in fact distributed the report in the Romanian language.

The situation of women workers

11. The Committee recalls that many constitutional provisions exist which protect against discrimination based on sex in employment and occupation. It also notes that sex is not a legal criterion upon which a worker can be discharged from his or her employment. It also notes from the detailed information provided by the Government that, in 1991, women constituted a significant percentage (42.3 per cent) of the labour force. According to the Government's report, women have suffered the most in 1992 and 1993 from the steep rise in unemployment resulting from the economic transition and application of structural adjustment measures. Women now constitute over 60 per cent of the unemployed.

12. The Government states that women occupy a special place within the framework of the measures taken against unemployment. For example, women represent two-thirds of the unemployed who participated in vocational training courses, particularly for occupations such as seamstress, sales and secretaries. It also indicates that women's opportunities for reintegration into jobs will increase with the development of the service sector.

13. The Committee notes this information and hopes the Government will continue to provide detailed information on the situation of women in the labour force, including statistical data on employment and unemployment and the manner in which the Government has made efforts to promote equality of opportunity and treatment in employment for women of all groups of the population. More specifically, the Committee asks the Government to indicate the measures that have been taken so as to ensure that women have equal access to vocational training programmes and employment opportunities in a wide range of occupations and economic sectors.

Discrimination on the grounds of political opinion

14. Referring to its previous comments in which the Committee indicated its concern that manifestations of differing political opinions may still give rise to discriminatory practices in employment, the Committee asks the Government to indicate, in its next report, any measures that have been taken to ensure that discrimination on the ground of political opinion does not occur in practice.

15. The Committee is addressing a direct request to the Government on other points.

[The Government is asked to supply full particulars to the Conference at its 81st Session, on the steps taken in respect of paragraphs 8 to 10 above.]

Saudi Arabia (ratification: 1978)

Referring to its 1993 observation, the Committee takes note of the statement of the Government representative at the Conference Committee in 1993 and of the discussion that took place. It also notes the observations of the International Confederation of Arab Trade Unions (ICATU) dated 17 March 1993, and the Government's reply according to which it has always respected its constitutional obligations under articles 19 and 22 of the ILO Constitution. It also notes that the Government rejects all ICATU's comments.

1. The Committee notes that ICATU's comments concerned discrimination in employment allegedly suffered by women and minority groups such as Saudi Shiite Muslims. The Committee regrets that the Government did not reply in detail, especially as the Committee has raised questions concerning the Shiite minority in previous direct requests. It would like to receive precise information on the points raised by ICATU.

2. In its previous comments, the Committee had noted the Government's statements that the Convention was respected through the Shariah (which constitutes the fundamental law of the country) because it preached equality and justice. The Committee notes the Government's position, which it repeated before the Conference Committee, according to which a country which has a legal system founded on the Shariah cannot be judged in the same way as a country using positive law. The Committee must recall that, in ratifying the Convention, member States undertake to eliminate all discrimination based on the criteria enumerated in Article 1, paragraph 1(a) of the Convention and to declare and pursue a national policy to promote equality in employment, in conformity with Article 2. The Committee recalls that the Convention leaves to each country the choice of methods which, taking into account the national conditions and practice, will appear to be the most appropriate. The implementation of the aims of the national policy can be gradual, although some obligations apply immediately, such as the elaboration of this policy, the repeal of statutory provisions contrary to this policy, the abolition of discriminatory administrative practices and the requirement to report on the results achieved to this end.

3. Regarding section 160 of the Labour Code, under which "in no case may men and women co-mingle in the place of employment or in the accessory facilities or other appurtenances thereto", the Committee notes that the Government representative again referred to the Islamic traditions in force to justify the maintenance of this provision, which the Committee had requested be repealed. It also notes that, according to the Government representative, this prohibited co-mingling at the workplace requirement does not affect equality of opportunity and treatment vis-à-vis women in employment or occupation as it only applies after recruitment. He stated that women had access to employment suited to their nature. The Committee notes that the Government states that this measure cannot be repealed since it derives from current Islamic traditions and that its aim is to protect the honour and virtue of women. The Committee notes once again that section 160 of the Labour Code has the effect of prejudicing equality of opportunity and treatment between men and women and is therefore incompatible with the Convention. The prohibition on men and women being together at the workplace results in occupational segregation according to sex since it restricts women to jobs where they will only be in contact with other women and which are deemed to be suitable to their nature and not contrary to current traditions. The Committee requests the Government to re-examine the situation in the light of the above comments and to inform it, in its next report, of the measures taken in this respect.

4. Regarding vocational training, the Committee recalls that the same approach as that referred to above in point 3 is applied towards women in this area. It recalls that training is the key to promotion of equality of opportunity, and that discrimination carried out in regard to access to training will later be perpetuated and accentuated when it comes to access to employment and occupation. It thus requests the Government to indicate the measures it intends to take to allow women access to vocational training in areas which are not traditionally "feminine" so that women may have the same opportunities as men, in conformity with the Convention. The Committee trusts that the Government will be in a position to supply information on this in its next report. The Committee reminds the Government that the Office is at its disposal for any technical assistance that might help overcome the difficulties in the application of the Convention.

5. The Committee is also addressing a direct request to the Government on a number of points.

Sudan (ratification: 1970)

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

1. It notes with interest the statement that, in the framework of the general revision of the labour legislation, the Ministry of Labour has included a provision giving express effect to the Convention in the draft of the new Manpower Act. This draft is currently before the tripartite commission responsible for discussing the labour legislation. The Committee requests the Government to

inform it of progress in the adoption of this provision and to provide a copy of the amended Act once passed.

2. In its previous observation, the Committee had requested full information on the practical application of section 6(c)(6) of Constitutional Decree No. 2 of 30 June 1989, under which a state of emergency was declared throughout Sudan, political parties and trade unions were dissolved, and measures would be taken to terminate the service of any public employee and every contract with a public office. The Committee notes that the Government's report is silent on this point.

The Committee again draws the Government's attention to Article 4 of the Convention and the fact that measures intended to safeguard the security of the State must be sufficiently well-defined and delimited so as to ensure that they do not become discrimination based on any grounds proscribed in the Convention. It again refers to paragraph 136 of the Committee's 1988 General Survey on Equality in Employment and Occupation, according to which, "the application of measures to safeguard the security of the State must be examined in the light of the bearing which the activities concerned may have on the actual performance of the job, tasks or occupation of the person concerned". The Committee hopes to receive full information in the Government's next report on the practical impact of the above-mentioned Decree.

3. The Committee notes the information received in May 1993 on the Government's "Concessional Position on the Issue of State and the Religion during the Interim Period". According to this position paper, "freedom of belief and worship shall be guaranteed in full to all Sudanese" (section 2(i)) and "during the interim period the southern states shall not be subject to any punishments based on Shariah law and alternative punishments shall be provided instead" (section 5). The Committee would like to receive information on the legal status of this position paper. It also asks the Government to inform it of any progress towards a new Constitution which would, according to the position paper, be silent about state religion.

4. Regarding the measures taken to eliminate discrimination in employment, including the role of selection committees in the public service, the Committee notes the information supplied concerning the measures taken by the selection committees to promote the principle of non-discrimination particularly based on sex, colour or religion. Noting that, according to the Government, the statistical system does not allow a breakdown indicating public and private sector workers, the Committee nevertheless urges the Government to supply information showing the practical implementation of the principle of the Convention in the public service (annual reports, studies, etc.).

5. The Committee also notes the statistics showing that, although almost as many women as men graduated from university in 1991 and 1992, only 74 out of 1,394 workers employed in posts requiring qualified training were women. It requests the Government to provide any inquiries or studies which examine or explain the reasons for this difference in recruitment between educated women and educated men.

The Committee requests the Government to continue to provide information on the measures taken to ensure that discrimination in employment and occupation does not occur on any of the grounds in the Convention, with particular emphasis on the grounds of discrimination

other than those explicitly mentioned in the report, such as discrimination based on political opinion.

6. The Committee is addressing a direct request to the Government on certain other points.

Sweden (ratification: 1962)

1. The Committee notes the information supplied by the Government on the Equal Opportunities Act, No. 443, which entered into force on 1 January 1992 and repealed the 1979 legislation of this subject, as well as the consequent amendments to the Ordinances containing the instructions for the Equal Opportunities Ombudsman and the Equal Opportunities Commission. Noting that, to date, no collective agreements have been negotiated under the new Act, nor court cases decided in application of its provisions, the Committee requests the Government to supply, in its next report, information on its application in practice, in particular concerning the enforcement activities of the Equal Opportunities Ombudsman and the Equal Opportunities Commission and on any annual plans for the promotion of equal opportunities between men and women at work. It would also appreciate receiving copies of any collective agreements containing provisions on the elimination of sex discrimination in employment negotiated in accordance with the new Act.

2. The Committee notes the information supplied by the Government on the measures taken to facilitate the adjustment of immigrants to working life in Sweden, as well as the final report of the Government Commission to study measures against ethnic discrimination, whose work followed on from the 1989 legislative proposals made by the Discrimination Ombudsman and the 1990 recommendations of the Commission against Racism and Xenophobia. The Committee notes with interest from the English language summary of the final report (SOU 1992:96) that the Commission proposes the adoption of a new Act against ethnic discrimination at work. This new legislation would prohibit discriminatory treatment in both recruitment and conditions of work on the bases of race, colour, national or ethnic origin, or creed and a Discrimination Ombudsman would be given similar enforcement functions as now exist for the Equal Opportunities Ombudsman as regards sex discrimination. Noting that the proposal is currently being circulated for comment and the replies being studied by the Government, the Committee asks the Government to supply information on progress towards the adoption of this legislation in its next report.

3. Article 4 of the Convention. The Committee notes that, according to the Government, the report and proposals of the Parliamentary Committee (SAPO-Kommitten) on the screening of personnel - copies of which have been requested since 1992 following expressions of concern from the Swedish ILO Committee over their content - are still under consideration in the relevant Ministry, now the Ministry of Justice. The Committee asks the Government to supply information on the outcome of this consideration.

4. The Committee is addressing a direct request to the Government on certain other points.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Angola, Antigua and Barbuda, Austria, Bolivia, Brazil, Cameroon, Cape Verde, Central African Republic, Chad, Chile, Costa Rica, Croatia, Cuba, Dominica, Ecuador, Egypt, Ethiopia, Guinea-Bissau, Guyana, Honduras, Iceland, India, Israel, Jamaica, Jordan, Lebanon, Liberia, Madagascar, Malawi, Mali, Malta, Mauritania, Mongolia, Nepal, Nicaragua, Niger, Norway, Pakistan, Peru, Qatar, Romania, St. Lucia, Sao Tome and Principe, Saudi Arabia, Slovenia, Somalia, Sudan, Sweden, Trinidad and Tobago, Venezuela, Yemen.

Convention No. 112: Minimum Age (Fishermen), 1959

Liberia (ratification: 1960)

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

In its previous observations regarding Article 2, paragraph 1, of the Convention, the Committee noted that no minimum age of 15 years for employment in fishing vessels had yet been imposed. It hopes the necessary measures will be taken in the near future.

Convention No. 113: Medical Examination (Fishermen), 1959

Liberia (ratification: 1960)

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

In its previous observations, it referred to the need for legislation to give effect to Article 2 of the Convention (requirement of a physical fitness certificate for employment on a fishing vessel), Article 3 (nature of the medical examination), Article 4 (period of validity of certificates) and Article 5 (possibility of a further medical examination). It hopes it will soon be possible to make progress in this respect.

Tunisia (ratification: 1963)

Further to its previous comments, the Committee notes with satisfaction that by virtue of section 8 of the Fishermen's Code (Law No. 75-17 of 3 March 1975), fishermen are required to submit to the

medical examination provided for under section 20 of the Maritime Labour Code, the nature and validity of which have been fixed by the Decree of the Ministry of Transport of 20 November 1990, thus giving effect to Article 3, paragraphs 1 and 2, and Article 4, paragraph 2, of the Convention.

* * *

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

Convention No. 114: Fishermen's Articles of Agreement, 1959

Liberia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. In its previous observations it expressed the hope that legislation would be enacted to give effect to the Convention. The Committee hopes it will soon be possible to take the necessary steps.

Panama (ratification: 1970)

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

In the comments it has been making for several years, the Committee has drawn the Government's attention to the need to adopt measures for the application of Article 3, paragraph 4 (adequate provision in the national law to ensure that the fisherman has understood the agreement) and Article 6, paragraph 3(a), (d), (e), (f), (g) and (i) (particulars to be specified in the agreement) of the Convention. In its successive reports, the Government indicated that a new model fishermen's contract was being prepared and that a preliminary draft Bill for fishermen had been worked out with the cooperation of an ILO expert. This draft took account, in particular, of these provisions of the Convention. In 1988 the Government indicated that the Directorate-General of Consular and Maritime Affairs of the Ministry of Finance and Treasury would take the necessary measures once the system of engagement on board cargo ships had been defined. In its last report, the Government states that the above Directorate has not adopted any model fishermen's articles of agreement and that any such measure must be taken in consultation with the parties concerned.

The Committee hopes that these consultations have begun and that, in its next report, the Government will indicate the progress made in the application of the above-mentioned provisions of the Convention.

Convention No. 115: Radiation Protection, 1960

Brazil (ratification: 1966)

The Committee has noted the information provided in the Government's report in reply to the comments made by the National Commission of Workers in Nuclear Energy (CONTREN) (received by the Office on 4 January 1993) concerning the dangerous working conditions to which workers are exposed in the nuclear industry. In particular, the Committee notes the Government's indication that, given the absence of valid statistics on occupational diseases in the nuclear energy sector, the Ministry of Labour has proposed to undertake coordinated action with the social partners to determine the actual situation in the nuclear industry in order to bring about the necessary changes for the benefit of the entire population. The Government has also indicated that the entire process in respect of working conditions in the country needs to be reformulated and invigorated by means of a system of collective agreements.

The Committee further notes that section 6 of Decree No. 623 of 4 August 1992 establishing the System of Protection for the Brazilian Nuclear Programme (SIPRON) empowers the Commission for the Coordination of Protection of the Brazilian Nuclear Programme (COPRON) to elaborate drafts for the revision of legislation on nuclear safety. In this regard, the Committee would refer the Government to its general observation of 1992 under this Convention which sets forth the latest recommendations made by the International Commission on Radiological Protection (ICRP) concerning exposure to ionizing radiations (Publication No. 60 of 1990) and hopes that the Government will review its legislation in this light. The Government is requested to communicate to the Office any information collected by the Ministry of Labour concerning the present situation in the nuclear industry, as well as any collective agreements relevant to the application of the Convention. The Government is also requested to indicate the steps taken or envisaged to revise existing legislation in the light of the latest ICRP recommendation.

The Committee is raising other points in a request addressed directly to the Government.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Guyana, Iraq, Lebanon, Slovakia.

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

Brazil (ratification: 1964)

The Committee notes the observation made by the Unique Workers' Central (CUT) concerning the application of the Convention. The CUT alleges, among other things, that some Brazilian workers engaged in

civil construction in Argentina received their wages, which were much lower than the wages of Argentinian workers, only on their return to Brazil. The CUT expresses concern on the possibilities of such occurrences in the framework of the MERCOSUR (Southern Cone Common Market). The Committee recalls that Article 8 of the Convention encourages, where immigration or emigration for employment occurs, the conclusion between the countries concerned of agreements to regulate matters of common concern. It notes that the Government has not communicated its comments on the observation of the CUT, and invites it to do so in the light of the provision of Article 8.

The Committee is also addressing a request directly to the Government.

Spain (ratification: 1973)

Regarding the comments made by the Democratic Confederation of Labour (CDT) of Morocco on the application of this Convention, please see under Convention No. 97.

Syrian Arab Republic (ratification: 1964)

Further to its previous comments, the Committee notes the development reported by the Government in revising certain provisions of the Labour Code No. 91 of 1959. It notes that the attached provision of section 51(b) of the Labour Code as amended by the revised draft Legislative Decree fixes the maximum amount only of advances which may be made to a worker in consideration of taking up employment. The Committee recalls that the Government's previous report received in December 1990 explained that the words "or during his employment" had been dropped from the above draft by a typing error. It points out that, under Article 12 of the Convention, the maximum amount of advances on wages made not only to a worker in consideration of taking up employment as provided in paragraph 2 of this Article but also for whatever reason during the employment shall be regulated by the competent authority.

The Committee hopes that the Government will soon take necessary measures to bring the legislation into full conformity with this provision of the Convention, on which it has been commenting since its ratification.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bahamas, Brazil, Central African Republic, Guatemala, Jordan, Malta.

Convention No. 118: Equality of Treatment (Social Security), 1962Barbados (ratification: 1974)

The Committee notes that the Government's report has not been received. It also recalls that the Government's last report contained no information on the measures taken or under consideration to ensure the full application of the Convention as regards the following point on which the Committee has been commenting for a number of years:

Old-age and survivors' benefits and employment injury pensions. Article 49 (in conjunction with Article 48) of the National Insurance and Social Security (Benefits) Regulations 1967 and Article 25 of the Employment Injury (Benefits) Regulations 1970 provide that in the event of the beneficiary residing abroad these benefits shall be paid in Barbados to such representative acting for and on behalf of the person concerned as may be approved by the competent authority. This provision, which appears to deprive the beneficiary of the right to ask for his benefit to be paid to him directly at his place of residence abroad, is not compatible with Article 5 of the Convention, under which any State that, like Barbados, has accepted the obligations of the Convention for branches (e), (f) and (g), must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch or branches in question, when they are resident abroad, the provision of old-age benefits, survivors' benefits and employment injury pensions.

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

Central African Republic (ratification: 1964)

In its previous comments the Committee drew the Government's attention to the need to take appropriate measures to give full effect to Article 4 of the Convention, branch (g) (employment injury benefit), and Article 5, branch (e) (old-age benefit) so as to lift certain restrictions on payment of these benefits abroad. The Committee notes that the Government's report on the application of the Convention has not been received. It however takes note of the discussions at the Conference Committee in 1993, during which the Government stated in particular that, although social turbulence is affecting the running of the administration, it has none the less actively prepared the draft texts needed to make the necessary changes to the legislation. The Government also stated that it wished to receive ILO technical assistance in drafting the necessary amendments.

The Committee notes this information. It recalls that it has been commenting since 1968 on the issue of restrictions on payment abroad of employment injury benefit and old-age benefit, and that the matter has also been discussed on several occasions at the Conference Committee. In these circumstances, the Committee again expresses the hope that the changes to the legislation mentioned by the Government will be adopted in the near future, by laws, regulations or other

means, and that they will ensure that full effect is given to the Convention as regards the following points:

Article 4 of the Convention, branch (g) (employment injury benefit). Section 27 of Act No. 65-66 of 24 June 1965 on industrial accident compensation should be supplemented by an express provision that in case of a victim of an occupational injury who was a national of a State that has accepted the obligations of the Convention for branch (g) (employment injury benefit) his or her dependants (survivors), even though they were not resident in the Central African Republic at the time of the victim's death and continue not to be so resident, may claim survivors' benefit if it is proved that they were actually dependent on the victim at the time of his death.

Article 5, branch (e) (old-age benefit). The national law should be supplemented by a provision for the payment of old-age benefit in case of residence abroad both to nationals of the Central African Republic and to nationals of any other member State that has accepted the obligations of the Convention for branch (e) (old-age benefit). In this connection, the Committee recalls that section 24 of Ordinance No. 81/024 establishing an old-age, invalidity and survivors' pension scheme for wage-earners, of 16 April 1981, and section 35 of Decree No. 423/340 of 10 August 1983, provide that benefits shall be suspended when the beneficiary does not reside in the national territory, except where there is reciprocity or an international agreement. It asks the Government to indicate whether Convention No. 118 is regarded as an "international agreement" within the meaning of above-mentioned sections 24 and 35. If so, the Government is asked to indicate the measures taken or envisaged by the Social Security Office of the Central African Republic to ensure that, in practice, old-age benefit is paid in the event of residence abroad both to nationals of the Central African Republic and to nationals of countries that have accepted the obligations of the Convention for branch (e) (to date: Barbados, Brazil, Cape Verde, Egypt, Guinea, Iraq, Israel, Italy, Kenya, Libyan Arab Jamahiriya, Mauritania, Mexico, Netherlands, Rwanda, Syrian Arab Republic, Tunisia, Turkey, Venezuela and Zaire).

The Committee hopes that the Government will not fail to send a report for examination at its next session and that it will contain detailed information on progress made in this respect.

Guinea (ratification: 1967)

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

Article 5 of the Convention. With reference to its previous comments, the Committee notes the information supplied by the Government in its reports received in March 1991 and January 1992, that the draft Social Security Code prepared with ILO technical assistance, which should make it possible for effect to be given to Article 5 of the Convention (the provision of certain benefits abroad), has been submitted to the Council of Ministers for approval and should be adopted very shortly.

The Committee also notes the Government's statement that, pending the adoption of provisions to facilitate the payment of benefits abroad, currently a lump sum equivalent to 36 months' wages and freely convertible into foreign currency is paid locally. In this connection, the Committee wishes to draw the Government's attention to the fact that the payment of a lump sum in the event of transfer of residence abroad, instead of periodic payments, is not fully consistent with Article 5 of the Convention which provides for the payment of the benefits concerned when the beneficiary resides abroad, and not their conversion into a lump sum. The Committee therefore hopes that the draft Social Security Code will be adopted shortly and that it will contain provisions which explicitly give effect to Article 5 of the Convention. It asks the Government to provide information on progress made in this respect, and on any measures taken to ensure the application of this provision of the Convention in practice, regardless of the existence of any legislation on foreign exchange control.

Article 6. The Committee hopes that the draft Social Security Code mentioned above will also ensure the application of Article 6 of the Convention under which each State which has accepted the obligations of this Convention in respect of family benefit shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other State which has accepted the obligations of this Convention for this branch, and to refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned.

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

Iraq (ratification: 1978)

Article 5 of the Convention (provision of benefits abroad). The Committee takes note of the information supplied by the Government in reply to its previous comments and of the discussions that took place in the Conference Committee in June 1993. It recalls that in its previous comments it asked the Government to indicate the measures taken or contemplated with a view to removing numerous restrictions concerning payment of benefits abroad for Iraqi nationals as well as for foreign nationals, contained in section 38 of the Workers' Pension and Social Security Law No. 39 of 1971 and in Instruction No. 2 of 1978 regarding payment of social security pensions to insured persons leaving Iraq, which are contrary to this provision of the Convention. In its reply, the Government states that the provisions contained in section 38 of Law No. 39 of 1971 do not constitute restrictions on the payment of benefits and are not contrary to the provisions of the Convention; they are simply procedural rules applied in practice with regard to Iraqi nationals, Arab nationals and foreigners. Nevertheless, the Government adds that it is currently studying the possibility to modify the national legislation after the resolution of economic and financial problems. As concerns benefits due to workers,

particularly Egyptian workers, who had left Iraq following the war of 1990, the Committee notes that, according to the statement of the Government's representative in the Conference Committee, there was a serious determination on the part of the Government to pay all that was due to these workers and that benefits would be paid after the embargo against Iraq will have been lifted. In view of the fact that still no payment of benefits is made abroad, the Committee cannot but once again urge the Government to adopt in the near future measures ensuring the provision of long-term benefits in the case of residence abroad for Iraqi nationals and for nationals of other countries which have accepted the obligations of the Convention in respect of the branch in question, as well as for refugees and stateless persons, and to remove the restrictions in this respect in the light of the more detailed comments contained in the Committee's direct request.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Israel (ratification: 1965)

The Committee notes with regret that the Government's report has not been received. It recalls also that the Government's last report only reproduced the text of its report for the period 1983-86 with the addition of certain statistics for the year 1989.

The Committee is therefore bound to insist that the Government's next report contains full and detailed information on the points that it is raising once again in a request addressed directly to the Government.

Italy (ratification: 1967)

Articles 3, 5 and 10, paragraph 1, of the Convention, branch (e) (old-age benefit). In its previous comments the Committee had referred to the issue of the "social pension" to which Italian citizens are entitled when they are above the age of 65 years and satisfy certain means criteria, under the terms of section 26 of Law No. 153 of 30 April 1969. In its reply the Government states that, on the basis of the principle of equality laid down in Article 7 of the Treaty of Rome and following the European Community Court of Justice Judgment of 5 May 1983 and the European Community Regulation No. 1247 of 30 April 1992, the payment of the "social pension" will be guaranteed within the country to all citizens of the Member States of the EEC. The Committee notes this information. It once again expresses the hope that the Government will further reconsider its position in regard to the "social pension" with a view:

- (a) to granting the right to this benefit, in accordance with Articles 3 and 10, paragraph 1, of the Convention, to the nationals of the other Member States for which the Convention is in force and to refugees and stateless persons (without prejudice, as the case may be, to the Government's option to have recourse to Article 4, paragraph 2(c) of the Convention);

- (b) to ensuring the payment of "social pension", in case of residence abroad, both to Italian nationals and to nationals of any other Member State which has accepted the obligations of the Convention for branch (e) as well as to refugees and stateless persons (without prejudice to the Government's option to have recourse to Article 5, paragraph 2, so as to subordinate the payment of this benefit to participation of the Members concerned in schemes for the maintenance of rights, as provided for in Article 7 of the Convention).

The Committee asks the Government to indicate progress made in this respect in its next report.

Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes that the Government's report on the application of this Convention, which has been the subject of discussion in the Conference Committee in June 1992, has not been received. In this situation the Committee cannot but once again urge the Government to take all the necessary measures, in accordance with the assurances it gave in its previous report, to ensure full application of the Convention on the following points:

1. Article 3, paragraph 1, of the Convention (also in conjunction with Article 10).
 - (a) Under section 38(b) of Social Security Act No. 13 of 1980 and regulations 28 to 33 of the Pension Regulations of 1981, non-Libyan residents receive only a lump sum in the event of premature termination of work whereas nationals are guaranteed, under clause (a) of section 38 of Act No. 13, maintenance of their wages or remuneration, which is contrary to this provision of the Convention. The Committee asks the Government to indicate the measures taken or envisaged to amend the above provisions in order to ensure for nationals of States for which the Convention is in force (and for refugees and stateless persons) the same benefits as nationals in case of premature termination of work.
 - (b) Under regulations 5 and 8 of the Regulations concerning registration, contributions and inspection issued under Social Security Act No. 13 of 1980, the affiliation of non-Libyan officials and self-employed workers to the social security scheme is voluntary unless there is an agreement with the country of which these workers are nationals. The Committee again draws the Government's attention to the fact that where, as in the Libyan Arab Jamahiriya, the affiliation of nationals to the social security scheme is compulsory, the voluntary affiliation of certain categories of foreign workers to the social security scheme is contrary to the principle of equality of treatment laid down in Article 3, paragraph 1 (subject to the exceptions provided for in Article 10, paragraph 2). The Committee asks the Government to indicate the measures taken or contemplated to ensure for these categories of foreigners, when they are nationals of a State for which the Convention is in force,

- and also for refugees and stateless persons, compulsory affiliation to the social security scheme.
- (c) Under regulation 16, paragraphs 2 and 3, and regulation 95, paragraph 3, of the Pensions Regulations of 1981, non-national contributors, without prejudice to special social security agreements, who have not completed a period of ten years' contributions to the social security scheme (years that may be supplemented, where appropriate, by years of contributions paid to the social insurance scheme) are entitled neither to an old-age pension nor to a pension for total incapacity due to an injury of non-occupational origin. Furthermore, regulation 174, paragraph 2, of these Regulations seems to imply a contrario that the qualifying period is also required for pensions and allowances due to survivors of the deceased person by virtue of Title IV of the Regulations, when death is due to a disease or an accident of non-occupational origin. Since such a qualifying period is not required for insured nationals, the Committee points out that the above-mentioned provisions of the Pension Regulations of 1981 are incompatible with Article 3, paragraph 1, of the Convention. The Committee accordingly requests the Government to indicate the measures taken or contemplated to ensure the application of this provision of the Convention on this point as well.

2. Article 5. Regulation 161 of the 1981 Pension Regulations provides that pensions or other monetary benefits may be transferred to beneficiaries resident abroad without prejudice, where appropriate, to agreements to which the Libyan Arab Jamahiriya is a party. The Committee points out that, by virtue of this provision of the Convention, each Member that has ratified it must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, when they are resident abroad, the provision of invalidity benefits, old-age benefits, survivors' benefits and death grants, and also employment injury pensions. The Committee requests the Government to indicate in its next report the measures taken or envisaged to give effect in law and practice to this basic provision of the Convention.

The Committee hopes that the Government's next report will contain detailed information on the progress made in ensuring full application of the above-mentioned provisions of the Convention.

In addition the Committee draws the Government's attention to certain points which it is raising in a direct request.

Mauritania (ratification: 1968)

Article 5 of the Convention (Provision of benefits abroad). The Committee refers to its previous comments concerning the implementation of the recommendations of the Committee set up by the Governing Body to examine the representation made by the National Confederation of Workers of Senegal, under article 24 of the ILO Constitution, which invited the Government, among other measures, to take steps to establish and provide the benefits which may be due to Mauritanian nationals who left Mauritania following the events of 1989. The Committee notes the Government's statement in its report that bilateral technical committees are working on the settlement of all the matters relating to the benefits of Mauritanian and Senegalese nationals, and that in that context a solution will be found to the difficulties encountered in the implementation of the Convention. It also notes the information supplied by the Government in its report on Convention No. 111 to the effect that, at its meeting in November 1993, the Joint Mauritanian-Senegalese Committee decided that the bodies responsible for the provision of pensions, benefits and wage arrears in respect of the nationals of the two countries will receive instructions for the settlement of the entitlements of the beneficiaries for the period which has elapsed since 1989.

The Committee hopes that the Government will not fail to indicate in its next report the measures which it has taken to: (a) establish, where appropriate with the assistance of the bodies concerned, the benefits to which Mauritanian nationals who had to leave Mauritania following the events of April 1989 may be entitled under Article 5 of the Convention; and (b) to provide the benefits in question to these persons in accordance with the relevant provisions of the Convention.

Furthermore, the Committee once again expresses the hope that the Government will be able to supply in its next report, in accordance with point V of the report form on the Convention adopted by the Governing Body, detailed information on the effect given in practice to the Convention, including statistics on the number, nature and level of the benefits transferred to both Mauritanian and foreign nationals in the event that they reside outside the country.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Suriname (ratification: 1976)

Article 5 of the Convention (branch (g): employment injury benefit). The Committee recalls that section 6, subsection 8, of the Accidents Regulations (Decree No. 745 of 1947) as amended by Decree E-38 of 20 January 1983 is not in conformity with the Convention in so far as it provides only for the possibility for a beneficiary to request the conversion of his employment injury pension into a lump sum if he transfers his residence to abroad before the expiry of a three-year period from the date of the accident. In addition, there does not seem to be any provision in the legislation whereby the payment of employment injury pension abroad is guaranteed to injured persons after the expiry of the above-mentioned three-year period

provided for by the Accident Regulations or to the dependants of injured persons where they are resident abroad. In fact, under this provision of the Convention, employment injury pensions must be paid without restrictions where the beneficiary, whether a national of Suriname or of any State that has accepted the obligations of the Convention in respect of this branch, has or transfers his residence outside the territory of Suriname.

In its reply, the Government states that the report on the establishment of the national social security scheme is still under study by the interdepartmental committee. The Ministry is also studying a project to revise the labour legislation with the technical assistance of the ILO. In this context, the Government has asked the ILO for assistance with the social programme of structural adjustment, which will allow it to bring the national legislation into conformity with the ratified Conventions, and an ILO mission in the social security field is expected to take place in the near future.

The Committee notes this information. It cannot but once again express the hope that, in revising the national legislation, with the assistance of the ILO, if necessary, the Government will not fail to take appropriate measures to expressly remove all restrictions on payment abroad of employment injury pensions by repealing section 6, subsection 8, of Decree No. 145 of 1947 and to establish a machinery ensuring in law and in practice the payment of these benefits in the event of residence abroad, both to injured workmen and their dependants in conformity with this Article of the Convention. The Committee asks the Government to indicate any progress made in this respect as well as in connection with the establishment of a national social security scheme.

[The Government is asked to respond in detail for the period ending 30 June 1995.]

Syrian Arab Republic (ratification: 1963)

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

1. Article 5 of the Convention. The Committee notes from the Government's reply to its previous comments that there has been no progress regarding the adoption of the draft Decree to amend section 94 of the Social Insurance Code which the Government communicated in 1984. The draft Decree provides that the beneficiary of a pension, his dependants or the dependants of the insured person, who leave the territory of the Syrian Arab Republic, may require that the pension to which they are entitled be transferred to the country in which they reside. Consequently, the Committee is bound to reiterate the hope that the above-mentioned draft text will be adopted shortly. It asks the Government to report on progress made in this respect.

2. Article 10. With reference to its previous comments, the Committee notes that the draft of a new social insurance law to provide for a single insurance system for all workers is still being examined. It once again expresses the hope that the

Government will have no difficulty in including a provision in the new law, which stipulates explicitly that it applies to refugees and stateless persons, in conformity with this Article of the Convention.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Central African Republic, Guinea, Iraq, Israel, Italy, Jordan, Libyan Arab Jamahiriya, Rwanda, Zaire.

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

Convention No. 119: Guarding of Machinery, 1963

Central African Republic (ratification: 1964)

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

Article 2, paragraphs 3 and 4, of the Convention. In the comments that it has been making for over 15 years, the Committee referred to section 37(3) of General Order No. 3758 which provides that dangerous machines or parts of machines of which the sale, exhibition or hire is prohibited under section 37(1) shall be specified by Order.

The Committee noted, according to the information supplied by the Government, that the draft Decree provided for under section 37 above was before the competent authorities and had not yet been adopted. The Government also stated that the above draft text would also give effect to Articles 10, paragraph 1, and 11 of the Convention, concerning the measures that must be taken by the employer to bring national laws or regulations relating to the guarding of machinery to the notice of workers and to instruct them regarding the dangers arising from their use. Article 11 provides that no workers shall use any machinery without the guards provided being in position nor make inoperative these guards, while guaranteeing that, irrespective of the circumstances, no worker shall be required to use any machinery without the guards provided being in position or if they have been made inoperative.

The Committee notes the declaration of the governmental representative to the Conference Committee in 1993 according to which the basic texts have established an occupational medicine inspectorate responsible for supervision of problems relating to the protection of machinery and to occupational safety and health. Nevertheless, this inspectorate, according to that which was indicated by the governmental representative, is not in a position to function in

practice because of a lack of resources in qualified personnel and in equipment. The Government asked the ILO for assistance to train a general physician in occupational medicine and to receive appropriate equipment in order to permit the medical inspectorate to function.

The Committee notes that both the employers' members and the workers' members at the Conference Committee considered that the list of machinery or parts of dangerous machinery should be established by the administration and did not need the intervention of a physician.

The Committee once again expresses the hope that the text in question will be adopted in the very near future and requests the Government to furnish a copy of it with its next report.

Cyprus (ratification: 1965)

The Committee notes with satisfaction the adoption of the Factories (Amendment) Law No. 25 of 1989 amending articles 4, 25 and 29 of this Act. In the new wording, they give effect to the provisions of the Convention.

Ghana (ratification: 1963)

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

Articles 1 and 17 of the Convention. In its previous comments, the Committee noted that measures had not yet been adopted to give effect to the Convention in agriculture, forestry, road and rail transport and shipping.

The Committee noted that the Government was going to hold consultations with the ministries and sectors concerned in order to obtain their views, after which the Tripartite National Advisory Committee on Labour would consider the matter.

The Committee noted that the Government's latest report does not contain any information on this question. Since it has been the subject of comments for several years and assurances have been given by the Government on several occasions, the Committee hopes that the necessary action will at last be taken to ensure the guarding of machinery in the sectors concerned and that the Government will soon supply specific information on the progress made to that end.

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

Jordan (ratification: 1964)

The Committee notes the Government's latest report.

It notes from the information supplied by the Government in answer to its previous comments that the Committee responsible for examining the draft Labour Code has introduced provisions which are in keeping with those of the Convention. The Committee again expresses

the hope that the draft Labour Code will be adopted in the very near future so that effect will be given to Articles 2 and 4 of the Convention, since the Committee has been commenting on this matter for many years. It would be grateful if the Government would indicate all progress made in this respect and provide the text of the new Code as soon as it has been adopted.

Madagascar (ratification: 1964)

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

Articles 2 and 4 of the Convention. In the comments it has been making for a number of years, the Committee observed that Order No. 889 of 20 May 1960 contains, in sections 44 to 58, detailed provisions on the guarding of machinery, but that these provisions are applicable only to the use of the machinery and therefore have a more restricted scope than the provisions of the Convention. This instrument prohibits the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts specified in paragraphs 3 and 4 of the same Article are without appropriate guards. The Committee requested the Government to take the necessary measures to give full effect to the Convention on this point.

In its last report, the Government stated that sections 55 to 58 of Order No. 889 lie within the terms of the Convention since they prohibit the employer from using machinery on which the dangerous parts are not protected and which have not been formally approved. The Government added that, by extension, the prohibition of the sale, hire or transfer of this machinery may be deduced; however, a draft Order to amend or supplement Order No. 889 of 20 May 1960 was under examination by the Directorate of Labour and the new text will take into account the provisions of the Convention.

The Committee refers to paragraphs 55 to 63 of its 1987 General Survey on Safety in the Working Environment, in which it emphasized that "a mere prohibition of the use of inadequately guarded machinery cannot ... be considered as obviating the need to apply the requirements of Part II of the Convention concerning its sale, hire and transfer" (paragraph 62), and that "the prohibitions laid down in the Convention apply not only to the initial sale but also to subsequent sales by agents and to the hire, transfer and exhibition of unguarded machines, whether new or reconditioned" (paragraph 70).

The Committee once again urges the Government to take the necessary measures to give full effect to the Convention.

Zaire (ratification: 1967)

For a number of years the Committee has been drawing the Government's attention to the need to take measures to give effect to

the provisions of Articles 2 to 4 of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards).

In its reports the Government has referred several times to a draft Order on the guarding of machinery which the Government sent in 1983, and to the revision of the Labour Code. It also indicated that when the Code was revised, provisions would be adopted to give effect to the above-mentioned Articles of the Convention.

The Committee notes that in its last report the Government states that the draft Order on the guarding of machinery can be adopted only after the new Labour Code has been promulgated, which is not yet the case.

The Committee notes the information provided by the Government on the practical application of the Convention to the effect that the number of accidents due to machines was 82, 6 and 17 in 1989, 1990 and 1991 respectively.

The Committee hopes that the Government will do its utmost to take the necessary measures in the very near future. It asks the Government to indicate whether the draft Order referred to in its report is the same as the one the Committee noted in 1983 and on which it commented in a direct request of the same year.

* * *

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

Convention No. 120: Hygiene (Commerce and Offices), 1964

Jordan (ratification: 1965)

I. The Committee notes the information supplied by the Government in its latest report. In comments it has been making for many years, the Committee has been pointing out that there are no provisions in the legislation to give effect to Article 10 (maintenance of a comfortable and steady temperature at the workplace), Article 11 (workstations arranged so that there is no harmful effect on the health of the worker), Article 14 (sufficient and suitable seats for all workers), Article 15 (suitable facilities for workers to change, leave and dry clothing that is not worn at work), Article 16 (underground or windowless premises in conformity with appropriate standards of hygiene), Article 17 (the protection of workers against substances, processes and techniques which are obnoxious, unhealthy or toxic, including, where necessary, the provision of personal protective equipment) and Article 18 of the Convention (reduction of noise and vibration at the workplace). Since 1976, the Government has referred to the draft Labour Code which is to give effect to the above provisions of the Convention. In its report of August 1993, the Government indicates that the draft Labour Code provides that the necessary measures to apply Articles 10, 14, 15, 16 and 18 of the Convention will be taken in the form of instructions

drawn up by the Minister. The Government is asked to indicate the measures that have been taken or are envisaged to ensure that effect is given to Articles 11 and 17 of the Convention.

II. Article 1 of the Convention. 1. The Committee noted from the Government's report for 1991 that the draft Labour Code specifies the measures to be taken to ensure the application, in industrial establishments, of Articles 10 and 16 of the Convention. The Committee recalls that, by virtue of Article 1, the Convention applies to establishments, institutions and administrative services in which the workers are mainly engaged in office work. The Committee again asks the Government to indicate the measures taken or envisaged to ensure that the application of Articles 10 (comfortable and steady temperature at the workplace) and 16 (appropriate standards of hygiene for underground or windowless premises) is extended to establishments where workers are mainly engaged in office work.

2. The Committee noted that, according to the latest version of the draft Labour Code available at the Office, civil servants, employees of the public administration and municipalities are excluded from the provisions of the Code and are covered by special rules. The Government is again asked to indicate the measures taken or envisaged to guarantee that the Convention is applied to all workers, including public employees, in establishments, institutions and administrative services in which workers are mainly engaged in office work.

III. The Committee trusts that the Labour Code and the implementing instructions issued by the Ministry, or any other legal instrument necessary to guarantee that the above-mentioned Articles are applied to establishments covered by the Convention, will be adopted in the very near future and that the Government will ensure, in accordance with Article 4(b), that such effect as may be possible and desirable under national conditions is given to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120).

The Government is asked to indicate any progress made in adopting the new Labour Code and the ministerial instructions referred to and to provide a copy of any relevant texts adopted in this respect.

Madagascar (ratification: 1964)

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

For many years, the Committee had been calling the Government's attention to the fact that there were no specific laws or regulations to ensure the full application of Articles 14 and 18 of the Convention, which provide that seats shall be supplied to all workers without distinction of sex and that noise and vibrations likely to have harmful effects on workers shall be reduced as far as possible. Since 1975, the Government has stated in its reports that the Order provided for by the Labour Code of 1975 would give full effect to the above-mentioned provisions of the Convention. The Committee had noted from the Government's last report for the period ending October 1981 that no progress appeared to have been made in the adoption of this

Order. The Committee trusts that this Order will be adopted in the near future and that it will give full effect to the provisions of the Convention.

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

Paraguay (ratification: 1967)

In comments it has been making since 1973, the Committee has requested the Government to take the necessary measures to give effect to the following Articles of the Convention: Article 10 (maintenance of a comfortable and steady temperature); Article 18 (reduction of noise and vibrations); and Article 4(b) of the Convention (to give such effect as may be possible and desirable under national conditions to the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)). In its report for the year 1992, the Government indicated that Regulations concerning safety and health and occupational medicine had been adopted and would be sent to the Office as soon as they were printed. The Government's latest report refers to Decree No. 14390 which approves the Regulations concerning safety and health and occupational medicine and Decree No. 14204 which establishes the regulations concerning the National Occupational Safety and Health Council and indicates that the draft national safety and health and occupational medicine Act is being reviewed by the National Congress and will be sent to the Office as soon as it is adopted. The Committee trusts that the new legislation will ensure the full application of the Convention and requests the Government to send copies of Decrees Nos. 14390 and 14204, as well as any other relevant legislation adopted, with its next report.

Switzerland (ratification: 1966)

Further to its previous observation, the Committee notes with satisfaction the adoption on 18 August 1993 of Ordinance No. 3 concerning the Labour Act on work in industry, handicrafts and commerce which ensures the application of the Convention to commerce and offices.

The Committee is raising certain points in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Ghana, Lebanon, Switzerland, Ukraine.

Convention No. 121: Employment Injury Benefits, 1964
[Schedule I amended in 1980]

Guinea (ratification: 1967)

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

1. The Committee notes that, according to the information provided by the Government, the draft Social Security Code contains a number of provisions which enable effect to be given to the Convention. The Committee hopes that the new Social Security Code and the regulations issued under it will be adopted shortly and that they will ensure full effect to be given to the provisions of the Convention, particularly with regard to the following Articles which have been the subject of the Committee's comments for many years: Article 8 (List of occupational diseases); Article 15, paragraph 1 (Conversion of periodical payment into a lump sum); Article 22, paragraph 2 (Payment of part of the cash benefit to dependants in the event of suspension of the benefit).

2. Articles 19 and 20. The Committee takes note of certain statistical data provided by the Government. It observes, however, that the data are not sufficient to determine whether the amounts of the benefits paid in the event of temporary incapacity, permanent incapacity and death of the breadwinner (taking into consideration the family allowances paid before and, where appropriate, during the contingency) attain the level prescribed by the Convention. It therefore asks the Government to indicate whether recourse is had to Article 19 or to Article 20 of the Convention to establish that the percentages required by schedule II of this instrument are attained, and to provide the statistical information required by the report form adopted by the Governing Body, under Articles 19 or 20, according to the choice made.

3. Article 21. In its previous comments, the Committee asked the Government to supply information on the measures taken to ensure application of this provision of the Convention, which provides that the rates of cash benefits currently payable in respect of industrial accidents and occupational diseases shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living. Given the importance it attaches to the adjustment of benefits, particularly in the present general economic situation, the Committee hopes that the Government will not fail to include the information requested in its next report, particularly the statistics required by the report form under this Article of the Convention.

4. Lastly, the Committee asks the Government to provide the texts of any law or regulations concerning compensation for industrial accidents and occupational diseases for public servants coming under the public service rules and who are not covered by the general social security system.

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

Libyan Arab Jamahiriya (ratification: 1975)

Article 21 of the Convention. With reference to its previous comments, the Committee notes with interest the Government's statement that, in accordance with sections 28 and 34 of the Social Security Act, No. 13 of 1980, the level of cash benefits currently payable for long-term benefits is reviewed following substantial changes in the cost of living or wage levels. It notes, however, that the Government's report does not contain the statistics requested in order to assess the manner in which this Article of the Convention is applied in practice. It therefore once again requests the Government to supply the statistics called for in the report form under this Article of the Convention.

Zaire (ratification: 1967)

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

1. Article 8 of the Convention. In reply to the Committee's earlier comments, the Government states that the draft text to supplement the list of occupational diseases in the schedule to Ordinance No. 66-370 of 29 June 1966, which was prepared by the Social Security Reform Commission, will be submitted to the National Labour Board for examination before being transmitted to the competent authorities for enactment. The Committee takes note of this information. In view of the fact that the Committee has been commenting on the question of amending the list of occupational diseases for 20 years, it hopes that the above draft will be adopted shortly and that the list will contain the following additions: (a) diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series; (b) diseases caused by benzene or its toxic homologues, in accordance with the provisions of the Convention.

2. Articles 13, 14 and 18 (in conjunction with Articles 19 and 20). In its report, the Government indicates that the maximum monthly remuneration that is subject to contribution for the pensions and occupational risks branches has increased from 2,000 zaires to 30,000 zaires. It also indicates that the Executive Council is in the process of examining draft legislation on the national employment and wage policy (adopted by the 25th Session of the National Labour Council, held from 17 to 22 July 1989), and that the text will fix a new guaranteed inter-occupational minimum wage which will affect the level of benefits. The Committee notes this information with interest. It also notes the proposals to increase the daily compensation rate for temporary incapacity. It notes, however, that the statistics provided by the Government in its report do not permit

an appraisal of how effect is given to the above Articles of the Convention. Consequently, the Committee would be grateful if the Government would indicate in its next report whether it intends to have recourse to Article 19 or to Article 20 in comparing the amount of periodical benefits provided for in the national legislation with the minimum level prescribed by the Convention. It also asks the Government to provide the statistical information required by the report form under Articles 19 or 20 of the Convention. If the Government intends to have recourse to Article 19, it is asked, in particular, to state the maximum amount of periodical benefits payable in the event of temporary incapacity, total permanent incapacity and death of the breadwinner, and the wage of a skilled manual male employee chosen in accordance with paragraph 6 or paragraph 7 of Article 19. If the Government intends to have recourse to Article 20, it is asked to indicate the minimum amount of periodical benefits payable for each of the three contingencies mentioned above, and the amount of the wage of an ordinary adult male labourer chosen in accordance with paragraph 4 or paragraph 5 of Article 20. Please indicate also the amount of family allowance, if any, payable during employment and during the contingency.

3. Articles 23 and 24, paragraph 2. The Committee notes that the strengthening and extension of the regional social security committees responsible for ruling on appeals by insured persons were discussed during the work on social security reform at the 22nd Session of the National Labour Council. It also notes the Government's statement that the enactment of the new Social Security Code should make it possible to improve the operation of the social security system, in general, and of the regional committees. The Committee therefore asks the Government to provide detailed information on any progress made in the practical operation of the social security system and more particularly the regional committees, and to provide copies of the recommendations adopted in this connection by the National Labour Board. Furthermore, in connection with its previous comments, it again asks the Government to indicate whether the two regional committees still to be set up have now been constituted.

4. Article 21. The Committee would be grateful if the Government would provide information on the application of Article 21 of the Convention and supply the statistics required (under this Article) by the report form adopted by the Governing Body, concerning the readjustment of currently payable periodical benefits in the event of permanent incapacity and death of the breadwinner as a result of occupational injury.

5. Lastly, the Committee hopes that the new Social Security Code to which the Government referred in its report will enable full effect to be given to the Convention once it has been adopted; it asks the Government to provide a copy of it as soon as it has been adopted.

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

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In addition, requests regarding certain points are being addressed directly to the following States: Libyan Arab Jamahiriya, Netherlands, Senegal, Sweden, Venezuela.

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

Convention No. 122: Employment Policy, 1964

Algeria (ratification: 1969)

1. The Committee notes the Government's report for the period ending June 1992 and welcomes the detailed information contained in the report in reply to its previous comments. According to the statistics published by the ILO, which confirm those contained in the report, it notes that the unemployment rate, which was 17 per cent in 1989, rose to 19.7 per cent in 1990 and to 21.1 per cent in 1991. The results of the 1990 labour force survey point to characteristics of unemployment and its distribution which are a cause of concern: 85 per cent of the unemployed appear to be under 30 years of age and the average period of unemployment is two years. Furthermore, a significant and growing proportion of the unemployed have middle and secondary teaching diplomas. The Committee notes that data on employment by region should soon be available. It requests the Government to supply information which is as detailed as possible in its next report on the situation and trends of the active population, employment, underemployment and unemployment.

2. The Government states that employment problems are central to the concerns of the public authorities and that the employment policy which is pursued forms part of the reforms undertaken since 1988 to promote renewed growth in economic activity and achieve a lasting improvement in the employment situation. Employment promotion is encouraged by means of measures to improve the general functioning of the economy, such as the introduction of independence for enterprises, their management according to market forces and the strengthening of social dialogue, as well as specific measures to promote investment and the creation of cooperatives, to reduce the cost of labour through tax and other financial incentives for recruitment and to increase the facilities provided to enterprises and flexible forms of employment.

3. The Committee notes the information concerning the reorganization and development of public employment services. It notes that it was envisaged to double the number of local employment agencies over a five-year period. Furthermore, the regional integration of the administrative services covering employment and vocational training should improve the manner in which training is adapted to labour market needs. The Committee regrets in this respect

that the report due on the application of the Employment Service Convention, 1948 (No. 88), has not been received (see the comments under that Convention). With regard to the worrying level of unemployment among young persons, the Committee notes in particular the measures intended to encourage the vocational integration of young persons through the creation of a fund to assist in the employment of young persons (FAEJ), a programme to create jobs which are of public utility and to extend training through apprenticeship. According to the evaluation undertaken on 30 June 1992, the number of young persons who have benefited from vocational integration, temporary employment and training measures over a two-year period amounts to 250,000. The Committee would be grateful if the Government would supply information on the action taken as a result of the various proposals and recommendations which were made in September 1992 to develop vocational integration measures. The Committee also notes that the promotion of women's participation in economic activity is one of the development objectives, but that it is encountering constraints of a social and economic nature.

4. The report also refers to various employment measures planned by the Government in September 1992. The Committee notes that the planned measures include the commencement of major works, support for the creation of enterprises by young persons and the introduction of social protection measures against unemployment. It requests the Government to supply with its next report any evaluation which is available on the impact on employment of the various measure which have been taken. In more general terms, it would be grateful if the Government would describe the overall and sectoral employment objectives of development plans and programmes which are being implemented, or are under preparation, as well as the procedures adopted to ensure that the effects on employment of measures taken to promote economic development or other economic and social objectives receive due consideration (Articles 1 and 2 of the Convention). With reference, finally, to Article 3 of the Convention, in respect of which the report does not supply any new information, the Committee requests the Government to indicate in its next report the procedures by which the representatives of the persons affected by the measures to be taken are consulted concerning employment policies, both with regard to consultations with the representatives of employers' and workers' organizations and with representatives of other sectors of the economically active population, such as those working in the rural sector and the informal sector. The Committee hopes that the Government will soon be in a position to report an improvement in the employment situation.

Australia (ratification: 1969)

1. The Committee notes the Government's report for the period ending June 1992, which as usual, contains detailed information in reply to each of the questions contained in the report form and supplies valuable documents annexed to the report. The Government states that the high growth in employment which had characterized the previous reporting period was reversed as from the middle of 1990.

Since then, total employment has declined by 2.3 per cent (and full-time employment by nearly 6 per cent). In view of the maintenance of a high participation rate, particularly among women, the unemployment rate, which was below 7 per cent in 1990, increased rapidly up to nearly 11 per cent in 1992-93. The Government considers that this level of unemployment is "unacceptably high" and is concerned that long-term unemployment erodes the dignity of workers and social cohesion.

2. For the Government, the particular difficulties encountered in achieving the objectives set out in the Convention are principally associated with the economic recession. Although it states that it is convinced that the key to reducing unemployment is sustained and strong growth, it nevertheless considers that, due to the long process of restructuring which has been embarked upon, employment is likely to respond more gradually to the recovery in demand than in previous recoveries. Furthermore, the Government of South Australia also draws attention to the foreseeable consequences on employment of the deregulation of trade: according to its estimates, the progressive reduction of customs tariffs between 1992 and 2000 will result in a 20 per cent reduction in employment in South Australia.

3. The Committee notes with interest that the Government reaffirms in this context that full employment remains a fundamental objective, as illustrated for example by the document issued to accompany the presentation of the 1992-93 budget, which is attached to the report. The economic policy, which is aimed at improving the medium and long-term growth prospects of the economy, which are necessary for a lasting increase in employment and a rise in living standards, is based on containing the increase in real wages, including minimum wages, by means of the prices and wages agreement concluded with the trade union movement, measures to combat inflation which have resulted in a significant decrease in interest rates, and the pursual of fiscal reforms to encourage investment by enterprises. The Government also states that, in the short term, its budget policy has become more stimulatory by allowing an increase in the budget deficit and undertaking new expenditure with a view to stimulating economic activity and employment. In view of the results obtained in respect of inflation and interest rates, and the persistence of a high unemployment rate, the Committee would be grateful if the Government would continue to indicate the manner which, in accordance with Article 2 of the Convention, measures adopted to promote employment are decided upon and kept under review "within the framework of a coordinated economic and social policy".

4. The Committee also notes the information concerning the labour market policy measures adopted by the federal Government and by the States. Expenditure on these programmes practically doubled between 1991-92 and 1992-93. For the Government, in view of the need for competitiveness, the flexibility and "efficiency" of the labour market are vital factors in the adjustment process. In the context of the globalization of the economy and the resulting pressures, high priority is therefore given by both the federal Government and state governments, to the training and mobility of the workforce. In this respect, the Government of Queensland emphasizes that skills development is a responsibility which the Government has to share with

enterprises, which derive economic benefit from it. The Committee would be grateful if the Government would supply the evaluation, which is planned for 1994, of the application of the Training Guarantee Act of 1990, which places enterprises under an obligation to allocate a certain level of expenditure to financing training activities. The Government also describes the new system of unemployment protection which came into force in July 1991, which marks a closer liaison between unemployment benefit and programmes of active measures. Finally, the report also describes inter-ministerial initiatives to promote the employment of women, persons with disabilities and older workers. The Committee requests the Government to supply all available information in its next report on the impact of the various employment measures on the persons concerned.

Belgium (ratification: 1969)

1. The Committee notes the Government's documented report for the period ending June 1992. In its report, the Government states that, in a situation which is characterized by lower economic growth, the employment situation has deteriorated rapidly. Despite a very slight increase in the active population, the unemployment rate, which was 9.7 per cent in 1990, rose to 10.3 per cent in 1991. The rise was more rapid in 1992, and it reached 11.7 per cent in July 1992. The Government had hoped to be able to stabilize unemployment in 1993, but supplied additional information in January 1994 to confirm the acceleration in the rise in the number of jobseekers (the unemployment rate rose to 12.2 per cent in June 1993). Furthermore, the characteristics governing the distribution of unemployment in the various regions and categories of the population which the Committee had noted in its previous comments have persisted. In particular, the proportion of long-term unemployment is especially significant. According to the Government, nearly 50 per cent of the unemployed have been without employment for more than two years.

2. The Government states in its report that it is less the level than the structure of unemployment which is a matter of concern, and that particular attention is being paid to training and reintegrating the long-term unemployed. With reference to the conclusion in November 1990 of the inter-occupational agreement for the period 1991-92, it notes that the parties to the agreement stated that they were in favour of overall measures to combat unemployment, rather than isolated activities for specific categories. In the framework of this agreement, the concept of high-risk categories was extended and training and employment measures took the form of both new initiatives and the renewal of the measures taken under the previous inter-occupational agreement.

3. In this respect, the report gives a detailed and updated description of each of the measures adopted to increase job offers and decrease the demand for employment, to which the Government referred in its previous reports. The Committee would have preferred this description to be supplemented, in addition to the provision of gross data on the number of beneficiaries, by an evaluation of the overall and lasting effect of these measures on employment and it believes

that it can discern a trend for a decline in the number of beneficiaries of measures to find work for the unemployed (including vocational integration courses for young persons and measures known as "the third work circuit"), as well as an increase in the number of beneficiaries of incentives to withdraw temporarily from the labour market (career breaks). It would be grateful if the Government would indicate whether these trends are a result of a modification in the measures adopted in the context of its labour market policy. The Committee notes the importance of measures which have the effect of decreasing the demand for jobs, in a context in which activity rates are already relatively low and, more generally, the emphasis which is placed on social measures for the unemployed, in a context in which maintaining the level of competitiveness of the economy appears to be vital.

4. The Committee notes that by placing emphasis on describing the measures adopted in the context of labour market policies, the Government's report does not permit a full evaluation to be made of the effect given to the Convention. It recalls in this respect that the scope of an "active" employment policy in the sense set out in the Convention goes beyond the adoption of measures to seek a balance between the supply of jobs and demand on the labour market, and that it has to be pursued "as a major goal", "within the framework of a coordinated economic and social policy". With reference in particular to the questions contained in the report form, the Committee would be grateful if the Government would state in its next report the manner in which the principal measures taken in fields such as fiscal and monetary policies, prices, incomes and wages policies, and measures related to social security, contribute to the pursuance of the objective of "full, productive and freely chosen employment".

Bolivia (ratification: 1966)

1. The Committee notes the Government's report for the period ending June 1992, which contains a general statement concerning economic development in Bolivia, the Government's objectives and a number of references to vocational training activities. The Government states that the impact of structural adjustment is beginning to be felt and that economic growth is creating more jobs and producing a marked decrease in the unemployment rate which, according to the data from the National Statistical Institute, is 5.8 per cent. The Committee points out that the Government recognizes the difficulties persisting as a result of accumulated structural imbalances. A considerable part of the population has not enjoyed the benefits of progress: marginal categories of the population in rural and urban areas are experiencing conditions of extreme poverty and call for urgent attention. The Government adds that the objectives of the current plan include recapitalization of public enterprises, providing greater incentives for investment in production, generating employment and increasing the skills of the population. The Committee takes due note that the Government proposes, between 1994 and 1997, to generate 287,452 new jobs and trusts that in its next report it will indicate the extent to which the employment objectives which it has

set have been achieved. The Committee refers once again to its previous comments in which it emphasized the need to provide the detailed information required by the report form on the situation, level and trends of employment, unemployment and underemployment, particularly with regard to the most vulnerable categories of the population, such as women, young people seeking their first job, workers who have lost their jobs as a result of economic adjustment, indigenous peoples, etc. The Committee would wish to be in a position to fully evaluate, on the basis of the information supplied by the Government in its next report, the manner in which as a "major goal" an "active" policy designed to promote full, productive and freely chosen employment has been set forth and implemented "within the framework of a coordinated economic and social policy" (Articles 1 and 2 of the Convention).

2. Article 3. The Committee notes that the Government considers it of vital importance, at this stage of the consolidation of democracy and economic stability, to conclude an agreement between the major social and economic partners, the basis of which is set out in the "Plan For All". With reference once again to its previous comments, in which it noted the comments made by workers' organizations and the discussions held in the Conference Committee, the Committee urges the Government to supply in its next detailed report the information required by the report form concerning the consultations with the representatives of the persons affected by the employment policy. These consultations should have the objective of taking fully into account their experiences and views and securing their full cooperation in formulating and enlisting support for the employment policy. The Committee would be particularly grateful to receive information on the manner in which it has been possible to give effect to its previous comments regarding consultations held with representatives of employers' and workers' organizations, and with representatives of other sectors of the economically active population, such as those working in the rural sector and the informal sector, and those who have been affected by structural adjustment measures.

3. In its previous comments, the Committee noted with interest the information supplied by the Government on the activities of the National Institute of Vocational Education and Training (INFOCAL). It notes that the above Institute continues to achieve satisfactory results: between 1989 and 1992, an annual average of 4,142 persons received training. The Committee would be grateful if the Government would include information in its next report on the manner in which the persons who have been trained by INFOCAL, as well as by other projects in progress, some of which are receiving assistance from the international community, have been able to find lasting employment, and on the other measures which are envisaged to coordinate education and vocational training policies with prospective employment opportunities.

Chile (ratification: 1968)

1. The Committee notes with interest the Government's report for the period 1990-92 containing a detailed analysis of employment policy problems and the information requested in the Committee's previous comments.

2. With reference to its previous observation, the Committee notes that the employment and labour market situation has continued to improve. After a decline in 1990 as a result of the adjustment policy to cope with inflationary pressures, there was an upturn in employment growth in 1991 (more than 100,000 new jobs were created in 1991 and the employed active population grew by more than 200,000 between 1991 and 1992). The Government stresses the productive nature of the jobs created (70 per cent of them were in the industrial and construction sectors) and states that they were concentrated in the formal sector (only 25 per cent of the new jobs were in the informal sector). The downward trend in unemployment, noted previously, continued: the unemployment rate dropped to approximately 5 per cent of the active population in April-June 1992, and the Government describes this as "close to full employment". With regard to remuneration and income distribution, the information in the report shows an increase in real wages (of 4.5 per cent over the past year), largely to the advantage of low wages, partly as a result of a series of tripartite agreements on economic and social issues.

3. The Committee has received comments from the Regional Employment Programme for Latin America and the Caribbean (PREALC) concerning the Government's report, which, generally speaking, bear out the Government's analysis and evaluations. PREALC points out, however, that there are still problems in the labour market: the high percentage of workers in low productivity jobs, and regions or industries in decline (such as coal), temporary workers in the agricultural sector, and youth unemployment. The Government makes it clear that it is still worried by the problem of youth unemployment, whose rate is still double that of the active population (11 per cent) and which mainly affects young people from the poorest households.

4. The Government attributes the results obtained to the implementation of an active employment and human resources policy, within the framework of an economic policy aimed at reconciling growth and equity. The economic indicators (particularly an annual product increase rate of 7 per cent) and the above-mentioned labour market indicators (employment and unemployment) bear out the progress registered during the reporting period. The Committee notes the information on the development of consultation procedures and more extensive cooperation between the social partners, which, while they appear to focus more on wages and remuneration than employment itself, constitute progress towards meeting the requirements of Article 3 of the Convention. It also notes with interest the various PREALC technical cooperation activities and the actions taken as a result, which have furthered the application of the Convention.

5. The Committee would be grateful if the Government would continue to provide information on efforts to achieve employment objectives as laid down in Article 1, by means of measures which,

under Article 2 must be decided on and kept under review within the framework of a coordinated economic and social policy.

The Committee also asks for additional information in a direct request on certain other points, and particularly the impact, which is still difficult to assess as PREALC confirms, of policies or specific instruments concerning the categories of workers or the population referred to above which are still encountering difficulties in the labour market.

Costa Rica (ratification: 1966)

1. The Committee notes the Government's brief report which merely provides statistics for 1987 to 1991 and a document on recent economic developments and prospects for 1993, produced by the Central Bank of Costa Rica.

2. According to the above document, there was significant growth in the Costa Rican economy in 1992. The Central Bank indicates that, as a result of a more dynamic economy, there was considerable growth in employment with prospects for reconciling growth objectives with equity and counteracting the effects of the reduction in the number of public sector jobs as part of the efforts to reduce state control. In 1992, there was further progress in the opening of the economy through the modernization of the currency exchange regime and acceleration of the process of lowering customs tariffs. These measures were reflected in a drop in import prices, with the beneficial result of lower inflation and a higher level of economic activity. The programme proposed for 1993 by the Central Bank was designed first and foremost to achieve a GDP increase of 4 per cent in real terms, reduce inflation and increase net currency reserves. These objectives were to be attained by reducing the total public sector deficit to 1 per cent, at most, of GDP, a prudent wages policy, restrictions on loans and the maintenance of a fixed exchange rate regime for the market. Structural measures aimed at a further reduction in import tariffs, substantial liberalization of price controls and public sector reform.

3. With regard to the growth in employment referred to by the Central Bank, the Committee is bound to note that according to the statistical data of the Ministry of Labour, between 1990 and 1991 the general level of employment stagnated and even dropped slightly (by approximately 1 per cent, whereas women's employment grew by some 3 per cent), and that the unemployment rate rose from 4.6 to 5.5 per cent of the active population over the same period (with a noticeably greater increase for women), which represents an increase of almost 20 per cent in the number of unemployed.

4. The Committee is only able to note from the report the monetary and budgetary policy measures taken or envisaged. It recalls, however, that in the comments it has been making for several years, it has already requested information on measures to declare and pursue a policy to promote full, productive and freely chosen employment, as required by Article 1 of the Convention, aiming, in particular, to offset both restrictive macroeconomic policies and the reduction of the public sector. So that it may examine in detail the

way in which effect is given to the provisions of the Convention, the Committee is bound once again to urge the Government to provide in its detailed report for the period ending June 1994 all the information required by the report form approved by the Governing Body. The Government is therefore asked to describe its main policies to attain the objectives of the Convention, and the methods used to ensure that account is taken of the effects on employment of the stabilization and structural adjustment programmes, and that the main employment policy measures are determined and regularly reviewed within the framework of a coordinated economic and social policy (Article 2).

5. The Committee notes that the Government's report makes no mention of any consultations with the representatives of persons affected by the measures to be taken, and particularly with the representatives of employers' and workers' organizations in accordance with Article 3 of the Convention. In this connection, it would be grateful if the Government would indicate whether consultations were held with the social partners on issues linked to employment policy in the context of the August 1991 meeting of the Central Labour Council. Please indicate also whether consultations have been held or are planned with representatives of the other sectors of the active population in the rural and informal sectors.

6. The Committee notes that the report of the 1992 ILO interdepartmental mission, Stabilization, structural adjustment and social policies in Costa Rica: The role of compensatory programmes, which was sent to the Government in June 1993, contains comments on the special employment programmes carried out with the technical cooperation of PREALC. It asks the Government to provide information, as required in Part V of the report form, on action taken as a result of technical cooperation, and on any factors which may have prevented or delayed such action recommended with a view to promoting an employment policy as laid down in the Convention.

Denmark (ratification: 1970)

1. The Committee notes the Government's report for the period ending June 1992 and the detailed information which it includes in reply to its previous observation. It notes that the weak growth in production has been accompanied by a decrease in total employment over the period, while the OECD's standardized unemployment rate, which was 9.7 per cent in 1990, continued to increase to 10.6 per cent in 1991 and 11.1 per cent in 1992.

2. The Government states that the persistence of a high rate of unemployment has led it to give high priority to employment policy and new initiatives to combat unemployment. The report contains a detailed description of the measures taken to further strengthen the labour market policy measures which had already been implemented and the Government considers that it is now necessary to undertake a more long-term reform of the basic structures of the labour market. The Government also considers that the employment policy must not be in conflict with the pursuit of other objectives, including combating inflation and maintaining a strict finance policy and a continued surplus of balance of payments. In this respect, its objective is to

establish an economic environment which encourages trade and industry and the improved competitiveness of enterprises as an indispensable prerequisite to the growth of production and employment. The Committee notes these general economic policy objectives and observes that they appear to have been broadly achieved in terms of maintaining domestic and external financial balances, but that the employment situation has continued to worsen, as shown by the data referred to above.

3. The Committee notes all the information supplied in reply to its previous comments concerning active labour market policy measures. It notes that the Government considers that the results achieved by the job offer scheme have not been satisfactory. The Committee notes in this respect the new provisions introduced in the context of this scheme, and the creation of new forms of leave from the labour market in the context of the series of employment policy measures adopted in June 1992. It would be grateful if the Government would continue to supply detailed information on the results achieved by each of these measures. The Committee also notes that the Government intends to introduce a more basic reform of measures to combat unemployment, accompanied by a reform of the unemployment benefits system. In this connection, the Committee draws the Government's attention to the Employment Promotion and Protection against Unemployment Convention (No. 168) and Recommendation (No. 176), 1988, which contain valuable indications as to how the unemployment protection scheme can be coordinated with employment policy.

4. With reference to its previous observation, the Committee also notes that, in the context of a complaint alleging violation of the principles of freedom of association (Case No. 1641), the Danish Confederation of Professional Associations (AC) referred, in its communication dated 15 April 1992, to the provisions of the Convention. The complainant organization considers that Act No. 929 of 27 December 1991 to amend the Consolidated Act on Job Offers for Unemployed Persons, which establishes a maximum hourly rate for jobs in the public sector offered as part of the job offer scheme, ignores "the mutual relationships between employment objectives and other economic and social objectives" which, under the terms of Article 1, paragraph 3, of the Convention, have to be taken into account in the employment policy. The AC, which also refers to the principle of proportionality in a later communication, dated 5 November 1992, considers that the protection of collective agreements which are in force forms part of the economic and social objectives which, in accordance with Convention No. 122, should not be violated by the employment policy. The Government states in its report that the establishment of a wage ceiling for the jobs offered in the job offer scheme in the public sector is intended to encourage the unemployed to seek work by themselves and to increase the number of job offers in the private sector, which has demonstrated that it provides better prospects of permanent employment.

5. While emphasizing that it is for the Committee on Freedom of Association to rule on the principal allegation of interference with the provisions of collective agreements, the Committee notes that the provision of Act No. 929 covered by the complaint deals with the remuneration of the long-term unemployed who accept a temporary job in the public sector for a maximum duration of seven months. It also

notes that this system of job offers and remuneration is not in any event to result in the dismissal of regular employees. The Committee considers that, under these conditions, temporary employment measures to encourage the integration of the long-term unemployed into the labour market are not in themselves contrary to the provisions of the Convention. The Committee, considers, however it should emphasize that it is the responsibility of the Government to ensure that the temporary nature of the jobs which are offered is observed in practice, both in the public and private sectors, in order to ensure that the measure does not deviate from its objective and that it is not used as a measure to fill permanent jobs. Finally, it draws attention to the relevant provisions (Parts III and VIII of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), which includes the recommendation to hold full and timely consultations on the formulation, application and monitoring of such programmes between the competent authorities and the organizations of employers and workers concerned.

Ecuador (ratification: 1972)

1. The Committee notes the Government's report and the information which it supplied in reply to its previous comments. The Government supplied statistics drawn from household surveys which show the levels and trends of employment, underemployment and unemployment from 1988 to 1991. The Committee notes that, despite the substantial growth in employment, open unemployment rose (the unemployment rate increased from 7 per cent in 1988 to 8.5 per cent of the active population in 1991). Women are the most seriously affected by unemployment, with an unemployment rate which is double that of male workers. Young persons under 25 years of age also have a high unemployment rate. Furthermore, nearly half the active urban population was affected by underemployment in 1991.

2. The Government states in its report that its social and labour policy has had three fundamental objectives since 1992: (a) the creation of more jobs through the implementation of a social policy which results in development and establishes conditions of justice, security and confidence which can attract internal and external investment, with a view to combating unemployment and underemployment; (b) the establishment and protection of a fair wage; and (c) the equitable and harmonious development of relations between workers and employers, through the recognition and encouragement of the rights of workers as set out in national and international legal principles and standards. The Government states that it is concerned by the gravity of the employment and unemployment problem and by the social costs of the structural adjustment measures adopted in September 1992. The Committee notes the formulation of a compensation plan, involving measures to encourage micro-enterprises and various types of assistance to support persons on low incomes. The Government once again emphasizes the efforts which it is making to promote employment in the rural sector, particularly through the programme for urgent employment and social development (PEEDS) which is intended to help the regions and categories which are the most

affected by the crisis and which is being implemented by the National Employment Institute. In this context, the Government has supplied data on the measures which have been taken and the jobs which have been created.

3. The Committee hopes that the Government will continue to supply information on the measures which have been taken or are envisaged with a view to the implementation of an active employment policy, the objectives of which are set out in Article 1 of the Convention. To this effect, it requests the Government to refer to the questions contained in the report form approved by the Governing Body. The Committee also points out that Article 2 provides that the measures which are adopted to attain the objectives of full, productive and freely chosen employment should be decided on and kept under review within the framework of a coordinated economic and social policy. It requests the Government to describe in its next report the procedures which have been adopted to guarantee that the measures which are taken to promote economic development and other economic and social objectives contribute to the attainment of the employment objectives set out in development programmes.

4. With regard to the effect given to Article 3, the Committee recalls that it emphasized in its previous observation the importance which it attaches to consultation with the representatives of the persons affected by the measures to be taken in relation to employment policy. The experience and views of these persons should be fully taken into account and their full cooperation secured in formulating and enlisting the support which is necessary to implement the employment policy. The Committee requests the Government to supply information on the manner in which employers' and workers' organizations are consulted, as well as the representatives of the rural sector and the informal sector, in order to enable it to assess the effect which is given to this provision of the Convention.

5. In a direct request, the Committee requests the Government to supply additional information on matters such as trade policy and its effects on employment, the compensation measures adopted for the persons affected by structural adjustment and the technical cooperation received from the ILO.

France (ratification: 1971)

The Committee notes that, by way of a report on the application of the Convention, the Government has forwarded the successive editions of the report on the activities of the employment delegation of the Ministry of Labour, Employment and Vocational Training for the years 1989-90, 1991 and 1992 (the latter reached the Office on 4 February 1994). The Committee points out that, although these documents contain detailed information on the employment situation and the implementation of various labour market measures, they cannot by themselves replace the report due under article 22 of the Constitution of the ILO. The Committee hopes that the Government will supply in its next report all the information required under both the report form approved by the Governing Body and its own comments.

The Committee refers in this respect to paragraph 4 of its previous observation. It reminds the Government of the interest that it attaches to information relating to the manner in which measures adopted under the general economic policy, in fields such as fiscal and monetary policies, industrial policy and prices, incomes and wages policies, contribute "within the framework of a coordinated economic and social policy" to pursuing "as a major goal" the objective of full, productive and freely chosen employment. The Committee also hopes that the next report will indicate the manner in which the representatives of the persons affected, and in particular representatives of employers and workers, are consulted concerning employment policies, in accordance with Article 3 of the Convention.

Guinea (ratification: 1966)

In its previous request addressed directly to the Government, the Committee took note of a communication from the General Union of Workers of Guinea (UGTG), dated 8 October 1992, which emphasized the gravity of the difficulties encountered by graduates and public servants who had lost their jobs, and alleged that there was no government policy to retrain them and reintegrate them into employment. The Committee, which notes that the Government has not responded to the invitation to make its own observations concerning the points raised by the UGTG, notes with regret that the report on the application of the Convention, due in 1992 and requested again in 1993, has not been received. It trusts that a report will be supplied for examination by the Committee at its next session, and that it will contain full information in response to its direct request, of which several points concern questions referred to in the allegations of the UGTG.

Honduras (ratification: 1980)

1. The Committee notes the Government's report for the period ending June 1992. In its report, the Government states that the gross domestic product recorded a growth of 2 per cent in 1991, which permitted an increase in private savings and investment, as well as the renegotiation and reduction of the external debt. Prices were totally freed in order to allow them to find their real level and therefore stimulate production, particularly in the agricultural sector. According to the Government, the transfer of resources to this latter sector resulted in an increase in the level of employment. Furthermore, loans were provided for small and medium-sized enterprises with a view to increasing production and productivity and promoting the creation of jobs in family enterprises. The Government also refers to the new legislation on investment which it hopes will lead to the direct creation of 70,000 jobs and to the indirect creation of 200,000 other jobs during the period 1993-97. The data available to the ILO, together with the growth in GDP, point to the maintenance of a particularly high rate of inflation (estimated at 32 per cent for 1991) and a substantial

budgetary deficit, while the prices of basic food increased substantially and the structural adjustment measures which have been implemented since 1990 have had a high social cost in terms of increased unemployment and poverty.

2. The Committee recalls that in its 1992 observation it expressed concern that account should be taken, in the context of the financial stabilization and adjustment programme, of the need to encourage an equitable distribution of the social costs and benefits of structural adjustment. It notes in this respect the information concerning the activities of the Honduran Social Investment Fund (FHIS), which was established in cooperation with PREALC, with a view in particular to the formulation of labour-intensive projects. The funds from the various donors have covered the financing of over 400 small-scale projects. The Government states in its report that around 480,000 people have benefited from the projects implemented by the FHIS. The Committee trusts that the Government will supply more detailed information in its next report on the situation, level and trends of employment, unemployment and underemployment and will report the results achieved by the measures undertaken to encourage the productive employment of categories of workers who frequently experience difficulties in obtaining lasting employment. More generally, the Committee also requests the Government to describe the principal policies pursued with a view to promoting full and productive employment, with an indication of the extent to which the employment objectives set out in development plans and programmes have been or are being achieved (please refer in this respect to the questions in the report form under Article 1 of the Convention).

3. In reply to the comments made in the observation of 1992, the Government states that the level of employment depends on macroeconomic policy and the rate at which production grows. It adds that, in the case of Honduras, the question of employment has to be seen in the perspective of the changing structure of employment resulting from the increase in productivity. With reference to Article 2 of the Convention and to the obligation to "decide on and keep under review, within the framework of a coordinated economic and social policy", the measures to be adopted to attain the objectives of full, productive and freely chosen employment, the Committee requests the Government to describe in its next report the procedures which have been taken to guarantee that the measures which are taken with a view to promoting economic development and other economic and social objectives contribute to the attainment of employment objectives in the sense set out in the Convention.

4. With regard to the consultations required under Article 3, the Government states that the Ministry of Labour and Social Insurance consults the workers on their expectations in the field of employment policy and that both the impact of the changing conditions of production on the capacity to absorb labour and the salary fluctuations are analysed jointly. The Committee would be grateful if the Government would supply information in its next report on the manner in which, in relation to employment policy, the experience and views expressed by employers' and workers' organizations are taken into account. Please also indicate whether formal or informal procedures have been established, or are envisaged, in order to hold

the consultations required by this fundamental provision of the Convention with the representatives of other sectors of the active population, such as those working in the rural sector and the informal sector.

5. The Committee notes with interest the adoption in March 1991 of the Act respecting employment promotion for persons with disabilities, which makes it compulsory for the public administration and private enterprises to recruit a prescribed number of workers with disabilities, and also provides for the establishment and development of special sheltered employment centres, cooperatives, micro-enterprises and other employment opportunities for persons with disabilities. The Committee would be grateful if the Government would supply information in its next report on the results achieved by the various measures which have been adopted to respond to the needs of persons with disabilities (point 2 of the report form under Article 1). The Government could also find it helpful to refer to the ILO's 1983 instruments on vocational rehabilitation and the employment of persons with disabilities (Convention No. 159 and Recommendation No. 168).

6. In a direct request, the Committee requests the Government to supply additional information on the action taken as a result of the technical cooperation activities of the ILO and PREALC, and on other aspects related to the application of the Convention (the activities of the National Vocational Training Institute, employment in the rural sector and the public sector).

Ireland (ratification: 1965)

1. The Committee notes the Government's report for the period ending June 1992 and the useful documents attached to the report. It also refers to OECD studies and notes that total employment stopped increasing during the above period. The growth in the active population and the reversal of migratory flows have resulted in a substantial increase in the unemployment rate since 1990. The OECD's standardized unemployment rate, which is determined on the basis of a survey of the active population, was 13.7 per cent in 1990 and rose to 15.6 per cent in 1991 and nearly 17 per cent in 1992. Registered unemployment, determined on the basis of the statistics of the employment services, transmitted by the Government, rose from 16.5 per cent in 1990 to more than 21 per cent at the end of the period. Furthermore, there is a high rate of long-term unemployment (60.7 per cent of total unemployment in 1990), which particularly affects young persons. Both on the grounds of the level of unemployment and its structural characteristics, the employment situation remains a matter of great concern. It is also striking to note that this situation has developed in a context of relatively high economic growth (around double the average for OECD countries). The Committee would be grateful if the Government would make an analysis of this phenomenon of growth without employment and would describe the relationship between employment objectives and other economic and social objectives (Article 1 of the Convention). See point 4 below.

2. The Government states in its report that its employment policy is intended to ensure the economic stability which is needed for the growth of production and employment, particularly by seeking a consensus on income developments and undertaking structural reform with a view to improving competitiveness. It considers that the success of this approach has been seen in the slow but sustained growth in industry and services and the favourable export performance, even during a period of world recession. The Government states in this respect that the objective of creating 20,000 additional jobs per year set out in the Programme for National Recovery, 1987-90, was fully attained and was included once again in the new Programme for Economic and Social Progress (PESP), for the period 1991-93. The Committee notes with interest that this Programme, which was agreed upon by the Government and the social partners in January 1991, sets as its major objectives economic growth and raising the standard of living, a substantial growth of employment and combating long-term unemployment. It notes that unemployment is identified as the principal problem in the country by all of those responsible for economic policy and that a tripartite committee has been set up to monitor the implementation of the Programme for Economic and Social Progress. The Committee would be grateful if the Government would continue to supply information on the achievement of the employment objectives of the above Programme, with an indication of the particular difficulties which have been encountered in attaining them and the extent to which they have been overcome.

3. The Government emphasizes that vocational training is an integral component of its employment policy and supplies information on the implementation and results of special employment and training programmes, particularly in favour of young persons, women and the long-term unemployed. The Committee notes in this respect that the Report of the Industrial Policy Review Group (the Culliton Report) concluded that the system of training for work and at work is inadequate for the needs of the economy and made recommendations relating in particular to the organization of the Training and Employment Authority (FAS) and the allocation of its resources. The Committee requests the Government to state in its next report the measures which have been taken or are envisaged following these recommendations with a view to ensuring greater coordination of education and training policies with prospective employment opportunities.

4. Finally, the Committee notes that a Joint Parliamentary Committee on Employment was recently established to examine all aspects of economic and social policy which have a bearing on employment creation and the alleviation of unemployment, including the effects on employment of the tax system, industrial incentives and the social protection system. It would be grateful if the Government would supply information on the recommendations made by this Committee and the effect given to them.

Italy (ratification: 1971)

1. The Committee notes the Government's report for the period ending June 1992 containing detailed information - albeit mostly for 1991 only - on the employment situation and the labour market policies implemented. The Committee refers to OECD data and notes that owing to moderate growth in employment there was a slight drop in the unemployment rate which fell from 11.5 per cent in 1990 to 11 per cent in 1991. Since the end of the reporting period, however, employment has ceased to grow and the unemployment rate reached 11.6 per cent in 1992. Furthermore, the major structural characteristics of unemployment and its distribution have remained, for the most part, unchanged. At best there has been a slight attenuation of the regional distribution of unemployment and a slight narrowing of the gap between male and female unemployment rates. Long-term unemployment which still affects approximately 70 per cent of the unemployed, and unemployment of over 30 per cent among the under-25 age group are still particularly worrying.

2. The Government's report recalls the labour market measures to which the Committee already referred in previous comments. It notes in this connection that there was an appreciable drop in the number of training-work contracts, which fell from 470,000 in 1990 to approximately 200,000 in 1992 although, in 50 per cent of the cases, this type of contract has led to permanent jobs for the young people holding them. It would be grateful if in its next report the Government would give the reasons for this drop and continue to provide detailed information on the scope of the various labour market measures and the results obtained. The Committee also notes that Act No. 223 of 23 July 1991 introduced new accompanying measures for enterprise restructuring and incentives to recruit redundant workers and the long-term unemployed. Promotion of the employment of women was also stepped up during the period by the adoption of Act No. 125 of 10 April 1991 providing for positive action in the area of training and employment, and Act No. 215 of 25 February 1992 introducing incentives for women to establish enterprises. The Committee asks the Government to provide information on the effect that these new measures have had on the employment of the persons concerned.

3. With reference to its previous observation, the Committee notes that, in the Government's view, the implementation of the tripartite agreement of March 1991 for the development of the South demonstrates the interdependence of economic development policies and the essential role of the social partners. It would be grateful if the Government would provide any available assessment of the results obtained. The Committee also notes that following negotiations on wages policy, combating inflation and reducing the budget deficit, a new national collective agreement was concluded in July 1993, part of which deals with employment promotion. The Committee asks the Government to provide particulars of the above agreement indicating, more generally, how employment policy falls within "the framework of a coordinated economic and social policy". It hopes in this connection that the next report will indicate how the economic policy measures taken or envisaged in the areas of monetary, budgetary and fiscal policies, investment policy and regional development policy contribute

to the pursuit of the objective of full, productive and freely chosen employment.

Netherlands (ratification: 1967)

1. The Committee notes the Government's report for the period ending June 1992. It notes from OECD data that the growth of employment, by 2.3 per cent in 1990 and by 1.3 per cent in 1991, has resulted in the continued reduction of the standardized unemployment rate, although at a slower pace than over previous years; this rate declined from 7.5 per cent in 1990 to 7 per cent in 1991 and 6.8 per cent in 1992. The Committee however notes that this trend has reversed since the end of the reporting period and that the unemployment rate has once again risen rapidly: according to OECD estimates, it is likely to reach 8.3 per cent in 1993. The Committee notes that long-term unemployment continues to account for around one-half of total unemployment. The Committee also notes the high rate of part-time work, particularly among women.

2. The Government's report concentrates on measures to promote employment among specific categories of the population, such as women, young persons, the members of ethnic minorities and workers with disabilities. It also describes the various measures which have been taken to subsidize the employment of the long-term unemployed. The Committee would be grateful if the Government would supply information in its next report on the results achieved by the various measures which it has described. The Committee also notes the new information concerning the reorganization of the employment services on a tripartite and decentralized basis and recalls that it requested the Government in its previous observation to state the extent to which the quantitative objectives set for the employment services for the placement in employment of categories of workers who are particularly affected by unemployment have been achieved.

3. With reference to its previous comments, the Committee regrets that the report does not contain the information called for by the report form on the principal measures adopted in such fields as investment policy; fiscal and monetary policies; trade policy; and prices, incomes and wages policies, with a view to promoting full, productive and freely chosen employment. It recalls in this respect that an "active" employment policy in the sense set out in the Convention is not confined to the adoption of measures to intervene on the labour market, but must also be pursued "as a major goal", "within the framework of a coordinated economic and social policy". The Committee hopes that the next report will contain the necessary information.

Norway (ratification: 1966)

1. The Committee notes the Government's report for the period ending June 1992. According to the information in the report, employment continued to decline and unemployment to increase. The OECD data which bear out the detailed information supplied by the

Government, show a drop in total employment of 0.9 per cent in 1990, 1 per cent in 1991 and 0.3 per cent in 1992. The unemployment rate rose from 5.2 per cent in 1990 to 5.5 per cent in 1991 and 5.9 per cent in 1992. The unemployment rate of the under 25 age group reached 13.9 per cent in 1992 and almost 25 per cent of the unemployed that year had been without work for more than one year. The Government also indicates an increase in underemployment, which particularly affects women and young people, in the form either of partial unemployment or involuntary temporary work. The continuation of relatively sustained growth in economic activity seems, at the moment, insufficient to reverse the downward trend in the labour market, which is appreciably less marked, however, than in most other OECD countries.

2. The Government indicates that the main objectives of its labour market policy are, in this context, to ensure speedy placement of jobseekers, prevent exclusion from working life, provide jobseekers with the right skills and curb the harmful effects of an imbalanced labour market. To this end, priority is given to promoting employment, as reflected in the importance attached to training measures and specially devised programmes for the most vulnerable categories of the population. The number of participants in employment programmes continued to increase in the reporting period, and the Committee notes with interest that follow-up surveys were carried out to assess the effect of these programmes on the employment of those concerned. It would be grateful if the Government would continue to provide the results of such surveys. The Committee notes the importance that the Government attaches to "active" labour market policy measures, as opposed to "passive" measures (to guarantee resources); it asks the Government to provide information in its next report on developments in the disbursement of public funds on this type of measure, since the data in the 1993 OECD economic survey do not appear to bear out the Government's assertion in this respect.

3. The Committee notes the indication that labour market policy objectives are integrated into the general economic policy, one of whose main priorities is to ensure conditions in which the economy can create stable employment. With reference to its previous comments, the Committee hopes that the next report will state, in answer to the questions in the report form, the manner in which the measures taken particularly in the areas of monetary and budgetary policies, prices, incomes and wages policies, investment policies or policies on balanced regional development contribute "within the framework of a coordinated economic and social policy" to pursuing the objective of full, productive and freely chosen employment. It would be grateful if the Government would state the role played in this area by the Employment Commission mentioned in the report. The Committee regrets to note that the report does not contain the information requested on how representatives of persons affected, particularly representatives of employers and workers, are consulted on employment policy, in accordance with Article 3 of the Convention. It trusts that the next report will also contain detailed information on the effect given to this important provision of the Convention.

Papua New Guinea (ratification: 1976)

The Committee notes with regret that for the sixth year in succession the Government's report has not been received. It hopes that a report will be supplied for comments by the Committee at its next session and that it will contain full information in reply to the questions set out in the report form, taking into account its previous comments.

Paraguay (ratification: 1969)

1. The Committee notes the Government's report and its communication of June 1993. The Government states in the communication that the problem of developing countries such as Paraguay is principally related to external debt (to which a solution is being found in Paraguay, which is the Latin American country with the lowest rate of external debt per capita), the protectionist policies pursued by the industrialized countries and, above all, their traditions of authoritarianism. These unfavourable conditions, in the Government's opinion, have undoubtedly had a negative influence on the implementation of an employment policy, which is nevertheless imperative for the State under the terms of the new Constitution. The Committee notes in this connection that sections 85 and 86 of the new national Constitution, which was adopted in June 1992, provide that "all the inhabitants of the Republic are entitled to lawful and freely chosen work and to personal development in conditions of dignity and justice" and that "the State shall promote policies for full employment and the vocational training of human resources, giving preference to nationals". The Committee trusts that the Government will indicate in its next report the measures which have been adopted under these important provisions of the Constitution.

2. The information supplied by the Government indicates that the open unemployment rate at the national level reached 10.4 per cent in 1991, which was a marked increase in relation to 1989 (6.7 per cent). The rise in unemployment is linked to the fall in economic activity and exports, and to a general situation of recession. The open unemployment rate in the metropolitan area of Asuncion is 5.1 per cent of the active population, with women accounting for 41 per cent of the unemployed and men for 59 per cent; the underemployment rate, which bears witness to the rapid development of the informal sector and which is the principal problem on the labour market, is estimated at around 9.5 per cent (and affected around 50,000 precarious workers in 1991). The Government refers in its report to various programmes and measures such as: the loans granted by the National Development Bank for producers in the agricultural, industrial and artisanal sectors; the creation of new jobs in the public sector (as the State is one of the principal providers of jobs for the unemployed); the extension of the network for the provision of energy and the distribution of drinking-water; and rural development projects (in the Caazapa region and for rural establishments in the framework of the agrarian reform). The Committee would be grateful if the Government would indicate the extent to which these programmes

contribute in practice to the promotion of employment objectives, in accordance with the national Constitution and the Convention. It hopes that the Government will supply information in its next report on the measures which have been taken, based on data concerning the nature and level of unemployment, to ensure that the principal measures of employment policy are decided on and kept under periodical review within the framework of a coordinated economic and social policy (Articles 1 and 2 of the Convention).

3. In its previous comments, the Committee referred to the programmes undertaken to coordinate education and training policies with prospective employment opportunities. It notes with interest in this respect the annual report of the activities of the National Vocational Training Board, which reports an increase in the number of participants and courses provided. It also notes the report of the General Directorate for Human Resources describing the results, up to 31 October 1992, of the programme to promote entrepreneurship among young persons, implemented on the basis of an ILO technical cooperation project. The Committee would be grateful if the Government would continue to supply information on the development of these programmes, with an indication of the measures which have been adopted or are envisaged so that the workers who benefit from these programmes manage to enter the labour market and find lasting employment. With regard to vocational guidance and training policies, in relation with employment policy, the Committee recalls the relevance of the instruments adopted in 1975 on the development of human resources (Convention No. 142 and Recommendation No. 150), as well as the 1991 General Survey on that subject.

4. For several years, the Committee has been raising the question of the application of Article 3 of the Convention, which requires consultation with the representatives of the persons affected by the measures to be taken, and in particular the representatives of employers' and workers' organizations, "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies". The Committee notes that the Government has not supplied precise information on this subject in its report. It notes that the Government describes in its communication the prospects for establishing renewed dialogue following the arrival in power of the new authorities, on 15 August 1993, with a view to the formulation of policies and strategies constituting an employment policy. The Committee is bound to renew its hope that the Government's next report will contain the information called for in the report form concerning the consultations which have to be undertaken in the field of employment policy with the representatives of the persons concerned (including those working in the rural sector and the informal sector).

Peru (ratification: 1967)

1. In its 1993 observation, the Committee said that it would postpone examination of the Government's report received in February 1993. The Committee notes the information, which is closely linked to employment policy, contained in the Government's reports on the

application of the Unemployment Provision Convention, 1934 (No. 44) and of the Employment Service Convention, 1948 (No. 88) (see the observations of 1993 and 1994, respectively, on these Conventions).

2. In its report on the application of Convention No. 122, the Government refers to the adoption in November 1991 of the Employment Promotion Act to which the Committee had already referred (see point 2 of the 1992 observation) as being the principal aspect of structural reforms. The Government states that it has made employment an explicit objective of economic policy and stresses that it is concerned with the employment of the least-protected categories of the population. The Government recalls the economic circumstances in 1990-91 which led it to adopt a stabilization and structural adjustment programme which includes restrictive budgetary and monetary policy measures, the liberalization of international trade, and making the world of work more flexible. The Government states that the above circumstances affected employment in terms of the level of absorption and utilization of manpower. The Committee notes from the available statistics for Lima that only 15 per cent of the active population have suitable employment, and that 75 per cent are affected by underemployment, the remaining 10 per cent being unemployed. The situation is particularly worrying for women workers, young people in the 14 to 24 age group and older workers of over 45 years. The negative effects of structural adjustment on employment and incomes have already been commented on by the General Confederation of Peruvian Workers (CGTP) in its communication of 1992 referred to in the Committee's previous observation. The Committee refers to part IX of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169) and reminds the Government of the objective of promoting a fair distribution of the social costs and benefits of structural adjustment, in order to ensure the effectiveness of employment policy. With reference to its previous assessments and comments, the Committee is bound once again to express the hope that the Government will continue to make every effort to declare and pursue, "as an essential objective", an "active" employment policy within the framework of a coordinated economic and social policy (Articles 1 and 2 of the Convention). The Committee notes in this connection that the new political Constitution of Peru, promulgated in December 1993, establishes that "work is a duty and a right", and "the basis of social wellbeing and a means of personal fulfilment" (article 2), and that "the State shall promote conditions for social and economic progress, in particular, by means of policies to promote productive employment and education (article 23(2)). The Committee notes that the Act of November 1991 and its regulations (adopted in April 1993), contain a set of measures to promote employment and vocational training, particularly for young people, and would be grateful if the Government would provide detailed information with its next report on programmes implemented under the new legislation and the results obtained. The Government states that these programmes are limited for the time being because of the economic recession. With regard to the measures to make the labour market more flexible, which constitute a large section of the measures set out in the Employment Promotion Act (and which the CGTP criticizes in the above-mentioned communication), the Committee would like to draw the Government's

attention to certain provisions of related international labour instruments that provide for the protection of workers against the use of contracts which aim to avoid the protection prescribed by the legislation (see Article 2, paragraph 3, of Convention No. 158 and Paragraph 3 of Recommendation No. 166, concerning termination of employment, 1982) - both of which are referred to in the 1991 presentation of the objectives of the Employment Promotion Act.

3. With its report, the Government provides data from the household survey conducted in Lima which accounts for 28.7 per cent of the population of the country. The Committee asks the Government to provide information in its next report on the measures taken to collect and analyse information and statistical data on not only the urban but also the rural and national labour markets, which are necessary, as Recommendation No. 122 recalls, as a basis for the general and specific measures to be taken within the framework of the employment policy. It hopes that the Government will be able to provide information in its next report on regional, social and economic plans and programmes to promote employment, and on the situation, level and trends in employment in the other departments of the country.

4. In its 1993 observation, the Committee noted the comments made by workers' organizations, expressing concern at the deterioration in the labour market, employment policies and the difficulties of social dialogue. With reference to the points already raised, the Committee would be grateful if in its next report, the Committee would provide information, in connection with Article 3 of the Convention, on how representatives of the persons affected, particularly representatives of employers and workers, are consulted on employment policy, indicating, in particular, whether such consultations are extended to representatives of other sectors of the active population such as the rural and informal sectors. With regard to the purpose of such consultations, the Committee recalls that the Convention provides that representatives of those affected "shall be consulted [...] with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such [employment] policies".

Poland (ratification: 1966)

The Committee notes that the Governing Body at its 257th Session (June 1993) entrusted the examination of a representation made by the All-Poland Alliance of Trade Unions (OPZZ), under article 24 of the Constitution, alleging non-compliance by Poland with the Convention, to a tripartite committee. In accordance with its usual practice, the Committee is postponing its comments on the application of the Convention pending the Governing Body's adoption of the conclusions and recommendations of the above-mentioned committee.

Portugal (ratification: 1981)

1. The Committee notes the Government's report for the period ending June 1992 which shows that there was an increase of 2.7 per cent in registered unemployment between June 1990 and June 1992, as a result of a 16.2 increase in male unemployment and a drop of 3.7 per cent in female unemployment. The OECD data indicate that employment growth in 1990 and 1991 had the initial effect of reducing the unemployment rate from 4.6 per cent in 1990 to 4.1 per cent in 1991, but that the drop in employment in 1992 sent the unemployment rate back up to approximately 5 per cent in 1993 despite a drop in activity levels. While the gap between male and female unemployment narrowed, the youth unemployment rate remained more than twice the overall rate and over 30 per cent of the unemployed have been without work for more than a year. The Committee notes the changes made in the definitions established for the purposes of the 1992 active population survey and would be grateful if the Government would provide as detailed as possible information on the level and trends of employment, unemployment and underemployment among the various categories of the population for the period 1992-94 which, according to OECD forecasts could see a rapid deterioration in the unemployment situation.

2. The Government's report indicates that the programme for the structural correction of the external deficit and unemployment, to which the Committee referred in its previous observation, was followed by a number of legislative measures, particularly aimed at the extension of training. Indeed, the programme for the training and integration of adults (FIA) begun in 1991 is an essential element of the Government's labour market policy. The purpose of the programme is to promote the integration of the long-term unemployed through training and recruitment, giving incentives to enterprises and focusing particularly on women, older workers and persons with disabilities. The Committee notes that the number of beneficiaries of the various training and retraining measures has grown significantly; and asks the Government to provide in its next report any available evaluations of the results obtained in terms of lasting integration in employment. The Committee also notes with interest the information on the implementation of the System of Incentives for Industrial Diversification in the Vale do Ave (SINDAVE). It would be grateful if the Government would continue to provide information on the way in which industrial policy and regional development measures contribute to promoting employment, indicating in particular the employment objectives of the 1994-99 Regional Development Plan recently adopted. More generally, it hopes that future reports will not be confined to labour market and training policies and that they will also refer to overall economic policies and deal with the links between employment objectives and other economic and social objectives. The Committee would appreciate receiving information on the "convergence programme" for 1992-95 which defines a medium-term economic strategy with a view to accession to the European Economic and Monetary Union and provides for labour market reforms (according to the 1993 OECD economic survey).

3. The Committee notes with interest that an Agreement on vocational training policy has been concluded by the Government and all the employers' and workers' organizations, which bears witness to

the social partners' contribution to defining the broad lines of employment policy. It also notes that an Economic and Social Council was created in 1991, which includes a standing committee on social cooperation. The Committee asks the Government to continue to provide information on the way in which consultation with representatives of persons affected is ensured, in both framing and implementing employment policies.

4. Lastly, with reference to its previous observation, the Committee would be grateful if the Government would provide information on the scope and implementation of the reform of the labour market and on the various measures to increase its flexibility, indicating their effects, either noted or expected, on the employment objectives of the Convention.

Sweden (ratification: 1965)

1. The Committee notes the Government's report for the period ending June 1992 and the enclosed observations of the Swedish Confederation of Professional Employees (TCO) and the Swedish Trade Union Confederation (LO). According to the information provided by the Government, there was a serious and rapid deterioration in the employment situation during the period covered by the report. The economic recession which began in 1991 resulted in a drop in employment of 1.7 per cent in 1991 and 4.1 per cent in 1992. Despite lower activity rates, the OECD standardized unemployment rate, which stood at 1.5 per cent in 1990, reached 2.7 per cent in 1991 and 4.8 per cent in 1992. Since then, there has been a further accelerated growth in unemployment. According to OECD estimates, the deepening of the recession in 1993 is likely to bring about a 6.7 per cent reduction in employment and a sharp increase in the unemployment rate to a level unprecedented in Sweden, of approximately 8 per cent. The description of the Swedish economy published in January 1993 forecasts unemployment rates of 6 to 7 per cent for 1993 and 1994. In less than three years, the number of unemployed has increased five-fold and the unemployment rate, which had been low for many years, is now reaching the average rate of those European countries which have ratified the Convention.

2. The documents provided by the Government (particularly the 1992-93 budget bill and the economic policy statement for 1993) show a change of direction in macroeconomic policy, which now gives priority to overcoming inflation and redressing the balance of public finances. According to the Government, the necessary adjustments have been too long in coming and it is now urgent to implement a stabilization policy to rebuild confidence and reduce interest rates, an essential factor of economic expansion and, therefore, of reduced unemployment. In the view of the Swedish Trade Union Confederation, the direct effects of the present economic policy will be to reduce employment and increase unemployment.

3. With regard to employment, the Government indicates that it plans to deregulate the labour market by abolishing the monopoly of the public employment service and simplifying existing labour legislation, in particular to stimulate small and medium-sized

enterprises. The Committee notes that the Act of 1974 respecting employment protection is one of the laws being amended. The Government will doubtless take into account the provisions of the Termination of Employment Convention, 1982 (No. 158), and the Committee's comments on the application of that Convention, when the amendments are made.

4. The Government indicates in its report that the various labour market policy programmes are still being expanded to combat growing unemployment. Priority is given to measures for training for employment and adapting qualifications with a view, in particular, to containing long-term unemployment and the unemployment of young first-time jobseekers. However, the annual follow-up studies indicate that the integration rate of the beneficiaries of training for employment, which for years stood at 70 per cent, attained only 51 per cent in 1991-92 because of unfavourable conditions on the labour market. The Committee also notes that measures to guarantee employment and temporary employment for young people have been replaced by an experimental programme of practical training in an enterprise for the unemployed who are under 25 years of age. It notes that the Swedish Trade Union Confederation considers that the design and implementation of this programme has been very unfortunate. According to the LO, its effect has been to provide free labour for enterprises which, therefore, have not needed to announce any regular vacancies suitable for young people. The Committee recalls in this connection that the Government is responsible for ensuring that measures to promote the employment of young people should not be diverted from their objective which is to contribute effectively to the lasting integration into employment of the persons concerned. It asks the Government to indicate in its next report the measures taken or envisaged to prevent any abuse. As is suggested in the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), such measures should fulfil certain conditions and in-depth consultations should be organized at an early date on their formulation, application and supervision between the competent authorities and the employers' and workers' organizations concerned (see in particular paragraphs 17 to 19 of the Recommendation).

5. The Committee notes that following the withdrawal of the Swedish Employers' Confederation (SAF) the Governing Body of the National Labour Market Board has not been a tripartite body since 1 July 1992. The Swedish Trade Union Confederation points out that the trade union representatives were removed from the Board of the Labour Market Administration against the will of the trade unions and that the same occurred with the trade union representatives in the County Labour Boards. The Government points out, however, that discussions with the social partners now take place in a tripartite advisory council under the Governing Body and specialized committees of a "more or less permanent" nature. The Committee would be grateful if the Government would provide complete information in its next report on procedures for consulting employers' and workers' representatives on employment policy measures established in this new institutional framework, specifying the opinions gathered and the manner in which account was taken of them, in accordance with Article 3 of the Convention.

6. Lastly, the Committee notes in summary and conclusion that while still declaring its attachment to full employment as a priority objective of labour market policy, the Government now considers that controlling inflation and public expenditure are prerequisites for renewed growth and employment. The Committee is bound to note that with the change of direction in macroeconomic policy, a rapid drop in inflation and reduced production have been accompanied by a worrying increase in unemployment, particularly long-term unemployment, which labour market policy measures, despite their scope, have been unable to contain. Furthermore, there appear to be signs of a lessening of tripartite dialogue at a time when serious difficulties in the area of employment and the measures to overcome them call for intensification of consultations between the social partners. In this context, the Committee must draw the Government's attention to Article 2 of the Convention, which lays down the obligation to decide on and keep under review, within the framework of a coordinated economic and social policy, the measures to be adopted in order to promote, as an essential objective, full, productive and freely chosen employment. It hopes that in its next report, the Government will be able to state that there have been positive developments in this respect.

Turkey (ratification: 1977)

1. The Committee notes the Government's report for the period ending June 1992 which contains detailed information in answer to its previous comments and includes the observations made by the Turkish Confederation of Employer Associations (TISK).

2. In its report, the Government refers to factors and circumstances which adversely affected employment during the period in question, particularly the consequences of the Gulf crisis which led to the loss of approximately 100,000 jobs and the return to Turkey of 25,000 migrant workers employed in the region. In total, civilian employment dropped by 2.7 per cent between 1990 and 1991. The Committee also notes that the strong recovery in economic growth in 1992 (over 5 per cent) has not reduced the rate of registered unemployment, estimated to be approximately 8 per cent, and that the underemployment rate has attained roughly the same percentage. Certain major structural features of the employment market are still worrying, such as the continued rapid growth of the active population, the continued drop in the average activity rate, the low activity rate of women, particularly in urban areas, the particularly high incidence of unemployment among young people under 30 years of age who account for more than two-thirds of the total number of unemployed, and the large proportion of low-productivity jobs in the urban informal sector.

3. The Government sets out the main lines of its economic policy in 1993: combating inflation, reducing public sector deficits, strengthening business competitiveness and improving income distribution. In this connection, the report mentions plans for tax reforms and the privatization of state economic enterprises. The TISK considers that combating structural unemployment means reducing fiscal and parafiscal levies and the level of social contributions, and lowering wage costs. The Committee notes that the programme for

privatizing state economic enterprises should result in the abolition of 230,000 jobs over a five year period. It asks the Government to indicate the nature of the accompanying measures referred to which are to ensure that redundant workers are redeployed in productive jobs. The Committee would also be grateful if the Government would give detailed information on the projects for the development of southern Anatolia and the expected incidence of these projects on employment. More generally, the Committee would appreciate more detailed information on the employment objectives and the priority given to them, and on how it is ensured that measures in areas such as monetary, budgetary and fiscal policies, prices, incomes and wages policies and regional development policies contribute effectively to the pursuit of the objective of full, productive and freely chosen employment "within the framework of a coordinated economic and social policy", in accordance with Articles 1 and 2 of the Convention.

4. The Committee notes the information on labour market policy measures provided in response to its direct request. It notes that the Supreme Coordination Board for Employment Development is the interministerial body that decides on such measures and that the State Employment Agency is responsible for implementing them. It notes that the latter is being reorganized and modernized, inter alia, in the context of the World Bank project on employment and training. It asks the Government to indicate in its next report the progress made in this area. Furthermore, the Committee hopes that the setting up, with ILO assistance, of a labour market information system (IPES) will shortly give the Government access to the reliable and up-to-date statistics that are essential to the choice and implementation of employment policies. It would again be grateful if the Government would indicate the latest developments with regard to the planned legislation on unemployment insurance and employment protection.

5. Lastly, the Committee observes that the Government's report does not state whether any consultations were held with the social partners during the reporting period (except as regards the planned legislation mentioned above) on employment policies. It recalls that under Article 3 of the Convention representatives of all persons affected by the measures to be taken must be consulted "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies". The Committee points out that such consultations should include, in addition to representatives of employers and workers, representatives of other important sectors of the active population such as the rural and informal sectors. It asks the Government to provide full information in its next report on the effect given to this essential provision of the Convention. The Committee also refers to its comments on the application of the Employment Service Convention (No. 88), 1948, where it notes the observations made by the Confederation of Turkish Trade Unions (TURK-IS), alleging that employers' and workers' organizations have not been consulted on the organization and running of the employment service and, more generally, that there is no active employment policy.

Uruguay (ratification: 1977)

1. The Committee notes the Government's report for the period ending June 1992. The Government indicates that employment policy is considered as a result of the achievement of the objectives of the economic programme, employment promotion being closely linked to the success of economic measures implemented. With the implementation as of 1990 of the structural adjustment programme, the Government's policy has given priority to re-establishing the major macro-economic balances - the objective of monetary and budgetary policies was to reduce inflation and contain the budget deficit. Substantial results have been attained in these areas. However, despite product growth (7 per cent in 1992), overall employment grew only slightly and the unemployment rate fluctuated around 9 per cent (these data concern the urban labour market). The information supplied by the Regional Employment Programme for Latin America and the Caribbean (PREALC) shows that unemployment is still affecting one worker out of five, as it did at the end of the past decade, and that women and young people are the hardest hit by unemployment. The youth unemployment rate is triple the average and PREALC considers that it probably contributes to the emigration of skilled young people. The Government recognizes that "structural adjustment, which the Uruguayan economy inevitably has to undergo, has caused an involuntary and temporary increase in unemployment and underemployment, in both absolute and relative terms". As to the effects on wages and incomes, the Committee notes that, owing to a policy to abolish the indexation of prices and wages, real wages increased substantially in the private sector but fell in the public sector and that, in 1992, the minimum wage was equivalent to only 60 per cent of the 1980 real wage.

2. In its 1992 observation, the Committee referred to Part IX of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169) and pointed out that it was necessary to share out fairly the social costs and benefits of structural adjustment. In view of the difficulties that the Government still seems to be experiencing in promoting the objectives of the Convention, particularly in "solving the unemployment and underemployment problem", the Committee trusts that it will take the necessary measures to determine and apply, "as an essential objective", an "active" employment policy, "within the framework of a coordinated economic and social policy" (Articles 1 and 2 of the Convention). The Committee would be grateful if in its next report the Government would supply relevant information on the measures taken in the different areas referred to in the report form, together with particulars of the situation, level and trends in employment, underemployment and unemployment in the country as a whole, including in respect of women and young people. It would also be grateful if the Government would describe the procedures adopted to ensure that their effects on employment are taken into consideration in the formulation and implementation of macro-economic policies.

3. The Committee notes the information concerning the agreements concluded by the Wages Council which, in the Government's view, are an outstanding example of long-term tripartite agreements comprising pre-established criteria for wage adjustments in the context of stability of employment. The Committee would be grateful

if, in its next report, the Government would provide information on consultations held on employment policy; such consultations must, under Article 3 of the Convention, aim to ensure that full account is taken, in both formulating and implementing employment policy, of the experience and opinion of the representatives of those affected (representatives of employers and workers organizations, and also representatives of other sectors of the active population such as the rural and informal sectors).

4. In a direct request the Committee asks for information on other issues concerning the application of the Convention (impact of the labour legislation on the labour market, special measures for the categories of workers most affected by unemployment and underemployment, coordination of education and training policies with employment policy, ILO technical cooperation)

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Barbados, Cameroon, Chile, Comoros, Cyprus, Djibouti, Ecuador, Greece, Guatemala, Guinea, Honduras, Iraq, Israel, Jamaica, Japan, Jordan, Lebanon, Madagascar, Mauritania, Mongolia, Panama, Papua New Guinea, Philippines, Romania, Slovenia, Sudan, Thailand, Uganda, Uruguay.

Convention No. 124: Medical Examination of Young Persons (Underground Work), 1965

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

Convention No. 125: Fishermen's Competency Certificates, 1966

Requests regarding certain points are being addressed directly to the following States: Germany and Panama.

Convention No. 126: Accommodation of Crews (Fishermen), 1966

Panama (ratification: 1971)

The Committee notes the information supplied in the Government's report in reply to its previous comments and, in particular, that the new draft text to regulate labour at sea and on inland waterways which, according to the report on the application of Convention No. 73, has been adopted by the Legislative Assembly in plenary sitting, contains provisions relating to inshore fishing and coastal vessels which take up in part the provisions of Decision No. 603-04-118-ALCN of 1988 and Decision No. 614-257-ALCN of 1984, thereby giving effect

to the Convention. The Committee would be grateful if the Government would supply a copy of the final text which was adopted.

Part IV of the Convention. Would the Government please indicate any consultations held in relation to the application of the Convention to existing fishing vessels.

Point V of the report form. See comments on Convention No. 92.

[The Government is asked to report in detail for the period ending 30 June 1994.]

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

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

Convention No. 127: Maximum Weight, 1967

Chile (ratification: 1972)

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

The Committee has taken note of the information provided by the Government to the effect that a copy of its observations has been transmitted to the special committee that is studying the draft General Regulations of the Labour Code.

Article 3 of the Convention. The Committee noted that Circular No. 30 of 4 December 1985, from the Director of Labour to the Regional Directors of Labour and the Provincial and Communal Labour Inspectors, lays down instructions on the maximum weight that may be manually transported by workers. This Circular gives effect to Articles 3, 4 and 7, paragraph 2, of the Convention by reducing the maximum weight of a load permitted to be manually transported to 55 kg, which is the weight recommended in Recommendation No. 128, and by specifying that the maximum weight of loads for women and young workers shall be substantially less than that permitted for adult male workers.

The Committee noted the above Circular with interest and asked the Government to indicate:

- whether sections 57 and 252 of Presidential Decree No. 655 of 7 March 1941 laying down the general regulations on occupational safety and health, which fix a maximum weight of 80 to 86 kg have been repealed and, if so, by virtue of which provisions; and
- whether the Circular has been published and distributed to employers, workers, courts and all other persons concerned.

Article 6. The Committee noted that section 8 of Circular No. 30 prescribes that mechanical devices shall be used for the transport of loads weighing over 55 kg. While this represents an improvement over the former weight limit of 80 kg for the use of

such devices to be required, the Committee points out that Article 6 of the Convention requires suitable technical devices to be used as much as possible, not only for loads over the 55 kg weight limit. Please indicate the measures taken or envisaged in order to apply fully this provision of the Convention.

Article 7, paragraph 1. The Committee noted that Circular No. 30 does not provide that the assignment of women and young workers to manual transport of loads other than light loads shall be limited. The Committee again expresses the hope that the Government will take the necessary measures to ensure full compliance with this provision of the Convention.

Article 7, paragraph 2. The Committee noted that section 4 of Circular No. 30 prescribes that the maximum weight of loads for women and young workers shall be substantially less than that permitted for adult male workers, without specifying maximum limits. Please indicate whether weight limits have been prescribed or are envisaged in this regard.

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

Italy (ratification: 1971)

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

Articles 2 and 3 of the Convention. For a number of years the Committee has drawn attention in its comments to the need to take measures to ensure the application of the Convention to workers assigned to the manual transport of loads in all sectors of economic activity subject to labour inspection.

In its statements to the Conference Committee in 1980 and 1982, the Government indicated that the protection of labour inspection extends to self-employed workers, that regulations of the Central Portage Commission provide for a limit on the weight that may be transported manually by workers in all sectors of activity, and that directives have been adopted by the Ministry of Labour in conformity with the opinion expressed by the Central Portage Commission. The Committee notes that these texts, requested on several occasions, were not supplied. In addition, the Government previously referred to a number of collective agreements which provided for a limit on the weight which may be transported by an adult male worker. In its report received in June 1987, the Government indicated that following successive renewals, the agreements in question no longer contained provisions on the manual transport of loads.

In its last report, the Government indicates more generally that the manual transport of loads is only regulated for minors of less than 18 years of age and for pregnant women, whereas for other women regulation is possible under section 1 of Act No. 903 of 9 December 1977 respecting equality of treatment as between men and women in questions of employment (L.S.1977 - It. 1).

Since the legislation does not limit the weight of loads that can be transported manually by adult male workers, the Committee requests the Government to indicate the measures taken to ensure that workers

do not transport loads which by reason of their weight are likely to jeopardize their health and safety.

Articles 7 and 8. In its previous comments the Committee drew attention to the need to limit the employment of women for the manual transport of loads other than light loads, and to determine the maximum weight of loads that may be transported by women, which should be substantially less than that permitted for adult male workers.

In its last report, the Government indicates that, for women, Act No. 903 of 1977 mentioned above provides solely for the possibility of excluding by collective agreement access of women to jobs which are particularly arduous. In this respect, the Committee recalls the resolution, supplied earlier by the Government, that the National Equality Commission (CNP) adopted in 1987, on the question of compatibility between the standards of Article 7 of the Convention and of Act No. 903/77.

In its 1987 resolution, the CNP first of all noted the compatibility between measures for the application of Article 7 of the Convention and the principle of equality of treatment, as enshrined in article 37, I, of the Italian Constitution, which leaves much room for protective legislation. The Committee observes that the ILO Convention concerning Discrimination (Employment and Occupation), 1958 (No. 111), ratified by Italy, likewise provides in paragraph 1 of Article 5 that the special protective measures provided for in other ILO Conventions and Recommendations shall not be deemed to be discrimination.

In cases where occupational medicine has clearly established that physiological differences exist which involve differences in aptitude for certain categories of work, such as the manual transport of loads, a differentiated protection such as that provided for under Article 7 of Convention No. 127, does not constitute an exception to the principle of equality of treatment but rather a premise for its actual implementation.

In its 1987 resolution cited above, the CNP considered that there is a conflict between Act No. 903/77 and Article 7 of the Convention, to the extent that the Act has repealed legislative provisions that earlier gave effect to the Convention, but that this conflict is of limited significance because in matters of arduous work, collective bargaining can already legitimately exclude women from the transport of loads or limit the weight of loads that they can transport.

The Committee recalls that under Article 8 of the Convention, the steps necessary to give effect to the provisions of the Convention will be taken by legislation or by any other method consistent with national practice and conditions. The Committee has taken note of a certain number of collective agreements, supplied by the Government, that reserve for men access to jobs involving the manual transport of loads surpassing a determined weight, which most often is set at 20 kg. The Committee is not aware whether such collective agreement provisions are in force for all jobs within the scope of the Convention.

In so far as the Government may not be in a position to ensure that the collective agreements in force give effect to Article 7 of the Convention in all activities that are subject to labour inspection, it would appear necessary to take the appropriate measures

to this end by legislation or by any other means, in compliance with Article 8 of the Convention.

The Committee recalls that in its 1987 resolution the CNP considered that if Act No. 903/77 in this respect relies on collective bargaining, this does not mean that the adoption of a law implementing Article 7 of the Convention would infringe upon the prerogatives of the parties to collective bargaining, as they do not have, within the national legal system, exclusive competence in this matter.

The Committee hopes that the Government will re-examine the situation with a view to ensuring that Article 7 of the Convention is applied in all activities subject to labour inspection, and that it will indicate the measures taken for this purpose.

Madagascar (ratification: 1971)

The Committee notes with regret that for the fourth year in succession the Government's report has not been received. It also notes that the Government representative's statement at the Conference Committee of 1992 that it was not possible to communicate information on the application of the Convention. Noting the concerns expressed by the Conference Committee concerning the lack of information on the application of the Convention and the importance placed by the Committee on this question, the Committee must repeat its previous observation, which read as follows:

In the comments that it has been making for a number of years, the Committee notes that measures have not yet been taken to limit the weight of loads that may be transported by adult male workers.

Even before the adoption of the Labour Code in 1975, the Government announced in its reports that texts to apply the Code would include a text to give effect to this Convention. In a report received in 1983, the Government confirmed this undertaking, although it pointed out that factories manufacturing jute and plastic sacks for rice, flour, etc., now respected the standard of 50 kg, and that the old sacks of 70 or 75 kg were disappearing since they were no longer being manufactured in Madagascar. In its report for the period ending 30 June 1986, the Government indicated that the above information concerning the current standardization of sacks manufactured locally remained valid and that this practice would be laid down in regulations.

However, the Government's last report, which was received in 1989, and the two letters signed by the Minister of the Civil Service, Labour and Labour Legislation in 1988, which were attached to the report, show that, in practice, factories, traders, transporters and farmers use sacks of 90 kg, 75 kg or 70 kg, which are generally manufactured locally, even though certain enterprises which are the principle manufacturers of these articles currently respect the standard of 50 kg. Consequently, the use of sacks that are in conformity with the requirements of international standards would, in the opinion of the Government, give rise to problems at the level of manufacture and consumption

and would create difficulties as regards production costs and prices for manufacturers, users, producers and farmers. In a letter to the social partners in November 1988, the Minister invited them to recommend production units, "in order to avoid the harmful effects of the immediate application of the Convention in national law and so as not to be in opposition with the country's undertakings on the international level", to manufacture, by stages, sacks of 55 kg or 65 kg and to launch them progressively, as they are produced, onto the market.

The Committee recalls that by virtue of Article 3 of the Convention, no worker shall be required or permitted to engage in the manual transport of a load which, by reason of its weight, is likely to jeopardize his health or safety. This rule does not provide for any exceptions on the grounds of production costs or prices or for any other reason. It is more than 20 years since Madagascar has ratified the Convention. For several years, the Government has been undertaking to lay down in regulations the current practice adopted by the principle manufacturers of sacks which respect the standard of 50 kg. In these circumstances, its letter recommending the production of sacks of up to 65 kg constitutes a serious retrogression. The Committee trusts that the Government will re-examine its position and that it will indicate in the near future the measures that have been taken to ensure that the Convention is applied to adult male workers.

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

[The Government is asked to report in detail for the period ending 30 June 1994.]

Portugal (ratification: 1985)

With reference to its previous comments, the Committee notes with satisfaction that section 8 of Legislative Decree No. 330 of 25 September 1993 to issue minimum health and safety requirements for the manual transport of loads, which is applicable to all branches of economic activity, provides that employers shall supply to the workers concerned, and to their representatives in the enterprise or establishment, information on: (a) the potential health risks arising out of the incorrect manner of undertaking the manual transport of loads; (b) the maximum weight and other characteristics of the load; and (c) the centre of gravity and the heaviest side when the contents of the load are not uniformly distributed in terms of weight. Section 8(2) provides that the employer shall ensure that the workers are provided with adequate training and accurate information on the correct manner of transporting loads.

The Committee notes that the above Decree also gives effect to the following provisions of the Convention:

Article 3. For loads weighing over 30 kilograms which are transported occasionally and loads weighing over 20 kilograms which are transported regularly, the employer has to evaluate the relevant aspects of the risk involved in the manual transport of the loads (section 5(1)(a)).

Article 4. With a view to reducing the risks involved, the available space, temperature and the unevenness, slope or instability of the ground shall be taken into account (section 5(2)). The physical effort required by the back, rest periods, large heights to which the load has to be lifted and the rhythm of work which is not under the control of the worker also have to be taken into account (section 5(3)).

Article 8. Workers and their representatives have to be consulted on the application of the provisions contained in Decree No. 330.

With reference to Article 7 of the Convention, the Committee notes that under the terms of section 3 of Decree No. 715/93, the maximum weight established for young men and women workers is 10 kilograms for persons from 14 to 15 years of age and 15 kilograms for persons from 16 to 17 years of age. In this respect, the Committee notes that for the purposes of the Convention the term "young worker" means a worker under 18 years of age. Furthermore, the Committee notes with interest that the maximum weights established for adult workers are 30 kilograms and 20 kilograms respectively for the occasional and regular transport of loads, which indicates that developments in ergonomics and occupational medicine have been taken into account; however, the Committee notes that the difference between the regular and the occasional transport of loads has not been taken into account when establishing the weights which may be transported by young workers. Nor has a difference been made between young male workers and young women workers.

With regard to women workers, the Committee notes that, although Decree No. 330 does not establish a difference between men and women workers with regard to the maximum weight of loads (30 kilograms and 20 kilograms respectively for the occasional and regular transport of loads), the Government states in its report that Decree No. 186/73 remains in force, section 3(c)(d) of which provides that work requiring the occasional manual transport of loads weighing in excess of 27 kilograms or the regular transport of loads weighing in excess of 15 kilograms is prohibited for women workers.

In this context, the Committee wishes to draw the Government's attention to the information contained in the Encyclopaedia of Occupational Health and Safety of the ILO on the maximum permissible weights for the manual transport of loads, according to which young persons of either sex are not suited to lifting loads and that physiological differences result in a different aptitude of women with regard to the manual transport of loads. The Committee also refers to Recommendation No. 128, in accordance with which, as far as possible, neither women nor young workers should be assigned to regular manual transport of loads, and where adult women workers are so assigned, the maximum weight of such loads should be substantially less than that permitted for adult male workers; similarly, the maximum weight of such loads for young workers should be substantially less than that permitted for adult workers of the same sex (Paragraphs 15, 16, 19 and 20).

The Committee hopes that the Government will continue to take measures to ensure, as far as possible, that women workers and young workers are not engaged in the manual transport of loads and to ensure that, when these categories of workers are engaged in the manual

transport of loads, the limits which are established for the loads take into account medical knowledge in this respect, as has been done for adult male workers. The Committee requests the Government to continue supplying information on the progress achieved in this respect and to supply information on the effect given in practice to the provisions relating to the manual transport of loads, including, for example, extracts of the reports of the inspection services and, taking into account the capacity of the statistical services, information on the number and nature of the violations reported and the measures taken in this respect, etc. (Part V of the report form).

Thailand (ratification: 1969)

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

Articles 3 and 4 of the Convention. The Committee noted that the national legislation does not contain provisions to give effect to Articles 3 and 4 of the Convention, which prohibit the manual transport by an adult male worker of a load which, by reason of its weight, is likely to jeopardize his health or safety, and provide that the conditions in which the work is to be performed shall be taken into account.

The Committee notes with interest from the Government's report that the Notification of the Ministry of Interior on Fishery provides for the maximum weight of 55 kg in respect of a load transported manually by an adult male worker, and that a provision concerning the maximum weight allowed to be transported manually by an adult male worker is envisaged in the Draft Legislation on Agriculture. The Committee would point out that relevant provisions should be adopted with regard to all branches of economic activity in respect of which the member concerned maintains a system of labour inspection, in accordance with Article 2, paragraph 2. The Committee hopes that account would also be taken of the conditions (nature of the work, physiological characteristics, climatic conditions, etc.), in conformity with Article 4. The Committee requests the Government to take the necessary measures to complete the national legislation in this respect, and to indicate the progress made in this direction.

Article 7. In its earlier comments, the Committee noted that the laws that are currently in force provide that the maximum weight of loads that may be transported by women is 30 kg for work performed on level ground and 25 kg for work requiring the climbing of a ladder or on any elevated surface (section 14 of the Announcement of the Ministry of the Interior respecting labour protection, dated 16 April 1972). As regards young workers, the Committee noted that the laws had authorized the manual transport of loads not exceeding 10 kg by children aged between 12 and 15 years (announcement of the Ministry of the Interior of 16 April 1972 respecting the employment of children who are over 12 years of age but still under 15 years). The Committee notes from the Government's report that the minimum age has been raised to 13 years and is expected to be raised further in steps until the age of 15.

The Committee requests the Government to supply a copy of this text with its next report and points out that Article 7 of the Convention provides for the limitation of the assignment of women and young workers to manual transport of loads and that, under the terms of Articles 21 and 22 of Recommendation No. 128, "where the minimum age for assignment to manual transport of loads is less than 16 years, measures should be taken as speedily as possible to raise it to that level", "with a view to attaining a minimum age of 18 years". Where women and young workers are engaged in the manual transport of loads, the maximum weight of such loads shall be substantially less than that permitted for adult male workers (Article 7 of the Convention).

The Committee also refers to the ILO publication "Maximum weights in load lifting and carrying" (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 15 kg is the limit, recommended from an ergonomic point of view, of the admissible load for occasional lifting and carrying for a woman aged between 19 and 45 years. As the legal minimum age for assignment to manual transport of loads is only 13 years and the maximum weight of loads that may be transported by women is 30 kg, the Committee requests the Government to indicate the measures taken or envisaged to ensure that the assignment of women and young workers to manual transport of loads other than light loads is limited.

Tunisia (ratification: 1970)

The Committee notes the information supplied by the Government in its report in reply to the comments concerning the application of the provision of Article 5 of the Convention.

The Committee notes that the Government's report contains no reply to other part of its comments. It hopes that the Government's next report will include full information on the matters raised in its previous observation, which read as follows:

Article 3 of the Convention. The Committee noted that section 1 of the Order of 5 May 1988 establishes the maximum permissible weight to be carried regularly by men at 100 kg, which considerably exceeds the maximum of 55 kg recommended in Paragraph 14 of the Maximum Weight Recommendation, 1967 (No. 128). The Committee pointed out that under Article 3 of the Convention no worker shall be required or permitted to engage in the manual transport of a load which, by reason of its weight, is likely to jeopardise his health or safety. In the Committee's opinion, the regular manual transport by a man of loads that may weigh up to 100 kg is likely to jeopardise his health or safety. The Committee therefore hoped that the Government would take the necessary measures in the near future to give full effect to Article 3 of the Convention.

The Committee notes the information supplied by the Government respecting the medical services in non-agricultural enterprises (section 153 of the Labour Code, the framework collective agreement of 20 March 1973) which are responsible for monitoring the health of the staff, their physical aptitude for the work they are required to perform, both at the time of

recruitment and during employment, and for protecting them against dangers to their health to which they may be exposed due to their occupation. It also notes the national collective agreement for ports and docks, concluded on 29 April 1975, which provides, in section 29, for the establishment and installation, in each port, of a medical service responsible for monitoring the health of employees and the dependent members of their families, their physical aptitude for the work they are required to perform and for protecting them from the dangers to their health to which they may be exposed.

The Committee requests the Government to supply information on the surveillance exercised by these services with regard specifically to workers employed in the manual transport of loads, and to supply, for example, copies of the reports that have been made on the health of these workers.

Furthermore, in view of the very high maximum weight established in section 1 of the Order of 5 May 1988, the Committee requests the Government to re-examine this provision in the light of the Convention and of Recommendation No. 128.

Article 6. The Committee noted, from the Government's report, that ever-increasing mechanisation is being noted in enterprises, which limits and facilitates the manual transport of loads. It requests the Government to supply more detailed information on the technical devices used in accordance with Article 6 of the Convention to limit or facilitate the manual transport of loads.

Article 7, paragraph 1. The Committee noted that the Order of 5 May 1988 does not contain a provision giving effect to Article 7, paragraph 1, of the Convention, under which the assignment of women and young workers to the manual transport of loads other than light loads shall be limited.

The Committee notes the Government's statement that the reduction of the maximum weight of loads that may be transported by women and young workers, provided for in the Order of 5 May 1988, is such as to limit the assignment of these two categories of workers, and that certain types of transport are prohibited under the above Order for women and young workers, such as transport on goods tricycles with pedals, which is prohibited for women of any age.

The Committee requests the Government to supply information in future reports on any measure that is taken to limit the assignment of women and young workers to the manual transport of loads.

Turkey (ratification: 1975)

In its previous comments the Committee had requested the Government to take the measures necessary in order to establish the maximum permissible weight of loads that may be transported manually by one adult male worker. The Committee notes that the Confederation of Turkish Trade Unions, in comments which were attached to the

Government's report, had stated that it shared the views of the Committee in this respect.

The Committee notes with satisfaction that the Regulation of 12 May 1991 modified the point 90 of the table in the Appendix to the Regulation regarding strenuous and dangerous work, establishing the maximum permissible weight of loads which may be transported manually by one adult male worker. The medical certificate is henceforth required for the transport of loads that weigh more than 25 kg but not more than 50 kg.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Guatemala, Lebanon, Malta, Nicaragua, Panama, Spain, Venezuela.

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967

Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes the Government's report. It notes that the report does not contain the information which has been requested on several occasions on the manner in which effect is given to Part V, Article 29 of the Convention (Review of cash benefits currently payable), which provides that the rates of cash benefits currently payable pursuant to Article 10 (invalidity benefit), Article 17 (old-age benefit) and Article 23 (survivors' benefit) shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living. In this respect, the Committee recalls its general observations made in 1989 with respect to Conventions Nos. 102 and 128, in which it considered that, given the effects of inflation on the general level of earnings and increases in the cost of living, revision of the level of long-term benefits should receive governments' particular attention in the current context of the general economic situation. The Committee therefore once again requests the Government to make every endeavour to ensure the application of Article 29 above and to supply the statistics called for under this Article of the Convention in the report form adopted by the Governing Body.

The Committee hopes that the Government's next report will also contain a detailed reply to the questions which it has been raising for many years and which it is recalling in a request addressed directly to the Government.

Switzerland (ratification: 1977)

1. The Committee notes with interest the information provided by the Government in its report, and at the Conference Committee in 1993. It also notes with interest the information concerning the new

type of pension introduced on 1 January 1993 in the context of the first part of the tenth revision of the Old-Age and Survivor's Insurance (AVS) (Part V of the Convention (Standards to be complied with by periodical payments) in relation to Part III (Old-Age Benefit)).

2. Part II (Invalidity benefit), Article 12 of the Convention (in relation to Article 32, paragraph 1(e)). In its previous comments the Committee raised the matter of the compatibility with the above-mentioned provisions of the Convention of section 7 of the Federal Invalidity Insurance Act (LAI) of 19 June 1959 which provides that cash benefits may be refused, reduced or withheld in the event of serious misconduct of the insured person or his dependants. As the Committee pointed out in its previous comments, suspension of benefits is authorized under Article 32, paragraph 1(e) of the Convention only where the invalidity has been caused by serious and wilful misconduct on the part of the person concerned.

In its report, the Government indicates that the debates in Parliament on the Bill concerning the general part of social insurance law which is to bring the LAI into conformity with the Convention on this matter, have been suspended. It points out that the Bill was initiated by Parliament, since the Committee of the States Council drafted it. The Bill has already been approved by the States Council. The National Council, for its part, has asked for further time to examine it. What is at issue is whether, at a time when numerous specific social security laws are being revised, it would not be more advisable, rather than to elaborate, a Bill on the general part of social insurance law, to draft a law harmonizing the legislation, which would be less complicated than the present Bill. The Government adds that, in any event, the issue is now in the hands of Parliament and that there is no question but that the LAI will be brought into conformity with the Convention by one type of law or another.

The Committee notes this information. It expresses the hope that the parliamentary debates on the issue will be pursued and will lead to the adoption in the near future of a text which will take full account of the above-mentioned provisions of the Convention.

Furthermore, the Government indicates that the Federal Insurance Court reversed the case law by a decision of 25 August 1993, i.e. after the reporting period in question; the Court found that the rule of international law contained in Article 32, paragraph 1, of the Convention applies directly and takes precedence over section 7(1) of the LAI. The Committee notes this information with interest. It asks the Government to provide the text of the above ruling.

Uruguay (ratification: 1973)

Article 29 of the Convention (review of cash benefits currently payable). With reference to its previous comments, the Committee notes the information concerning the adoption of Act No. 15900 of 17 October 1987, under which the pensions provided by the Bank for Social Welfare are revised annually. It also notes that the above Act is implemented by successive decrees which establish the percentage increase of the benefits. However, the Committee notes that the

report does not contain information on the decrees adopted since 1989. In view of the fact that without such information the Committee is not in a position to assess the real impact of increases of pension benefits in relation to the general level of earnings or the cost of living index, it requests the Government to supply in each of its future reports the text of these decrees and the statistical data required in this respect under Article 29 of the report form approved by the Governing Body.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Austria, Barbados, Bolivia, Ecuador, Germany, Libyan Arab Jamaniya, Switzerland, Uruguay, Venezuela.

Convention No. 129: Labour Inspection (Agriculture), 1969

France (ratification: 1972)

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

The Committee refers to its previous comments on the application of this Convention, and its observation concerning Convention No. 81. It also notes the new comments received from the National Union of Labour Directors of the Ministry of Agriculture and the CGT Federation of Public Services. The Committee hopes that the Government will not fail to transmit a detailed report under article 22 of the Constitution for examination at its next session and that all the information requested and described in greater detail in its direct request will be supplied.

Malawi (ratification: 1971)

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

Article 19 of the Convention. Further to its previous comments, the Committee notes with interest that the Workers' Compensation Act includes provision in section 24 for the notification of occupational accidents and diseases. It would be glad if the Government would clarify whether, in the light of section 2(a), this applies to persons whose employment is "of a casual nature". It hopes the Government will also provide a copy of the new rules involving inspectors in on-the-spot inquiries into serious cases.

Articles 14, 15, 21, 26 and 27. The Committee's comments under Convention No. 81 apply.

Syrian Arab Republic (ratification: 1972)

Article 16, paragraph 3, of the Convention. Further to its previous comments, the Committee notes that the amendment to section 248 of the Act to organize agricultural relations, that the Government said was envisaged in order to provide for the notification not only of the employer or his representative of an inspector's presence at the workplace, but also the workers or their representatives, has not been adopted. It trusts the necessary measures will be taken to permit the adoption of this amendment and ensure compliance with this Article of the Convention.

Articles 26 and 27. Further to its previous comments, the Committee notes that the annual report of the inspection services for 1989 has been received but that it does not contain information required by Article 27, paragraph (a), (laws and regulations relevant to the work of labour inspection in agriculture), paragraph (c) (statistics of agricultural undertakings liable to inspection and the number of persons working therein), and paragraph (g) (statistics of occupational diseases, including their causes). The Committee wishes to reiterate the importance it attaches to the publication of such annual reports within the time required by Article 26 and containing all the information required by Article 27 and in particular those referred to in paragraphs (a), (c) and (g) of this Article, to enable it to ensure the full implementation of the Convention. It trusts the necessary measures will soon be taken in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Côte d'Ivoire, Denmark, Finland, France, Guyana, Madagascar, Malta, Netherlands, Portugal, Slovenia.

Convention No. 130: Medical Care and Sickness Benefits, 1969Libyan Arab Jamahiriya (ratification: 1975)

The Committee refers to the comments which it has been making for a number of years and notes that the information supplied by the Government only contains partial responses and does not include the statistics called for in the report form adopted by the Governing Body. Without this information, it is impossible for the Committee to assess the extent to which effect is given to the provisions of the Convention.

The Committee is therefore once again bound to raise the matter in a new direct request in the hope that the Government will not fail to supply the information which is requested.

* * *

In addition, a request regarding certain points is being addressed directly to the Libyan Arab Jamahiriya.

Convention No. 131: Minimum Wage Fixing, 1970

Ecuador (ratification: 1970)

In its previous observation, the Committee noted the information supplied by the Ecuadorian Confederation of Free Trade Unions (CEOSL) concerning the application of Article 2, paragraph 1, of the Convention. By virtue of section 29 of Act No. 133 to revise the Labour Code, which amends section 168 of the Labour Code, workers can be recruited under an apprenticeship contract, of which the duration may not be more than six months, at remuneration which cannot be less than 75 per cent of the minimum living wage. The number of persons recruited under this form of contract cannot exceed 10 per cent of the number of workers in the enterprise. In the event of the continuation of the employment relationship at the end of the six-month period, the contract is converted into a contract without limit of time. The objective of this apprenticeship contract is to learn a trade or the special characteristics of a job which is manual, technical or which requires a skill.

The Ecuadorian Confederation of Free Trade Unions considers that this amendment to section 168 of the Labour Code creates a new category of workers who may be called "industrial apprentices" who are paid remuneration which is lower than the minimum wage.

The Committee notes that the Government has not made observations on these comments in its report, as it was invited to do in April 1992.

The Committee refers to paragraphs 169 and 176 of its 1992 General Survey on Minimum Wages, in which it indicates that the fixing of minimum wages as a function of certain criteria such as age must respect general principles, and particularly those contained in the Preamble of the Constitution of the ILO, which include equal remuneration for work of equal value. Furthermore, the Committee refers to the comments made in paragraph 177 of the above General Survey, according to which the concept of apprenticeship refers to persons who, irrespective of their age, are being trained at their place of work.

The Committee requests the Government to indicate the measures which have been adopted to ensure that the persons employed in enterprises under an apprenticeship contract by virtue of section 168 of the Labour Code, as amended, and whose remuneration must not be less than 75 per cent of the minimum living wage, undergo vocational training at their place of work. It also requests the Government to supply information on the manner in which the representative

organizations of employers and of workers were fully consulted with regard to the changes made to the system of fixing minimum wages.

The Committee is also addressing a direct request to the Government on certain points.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Cameroon, Costa Rica, Ecuador, Guatemala, Guyana, Iraq, Lebanon, Libyan Arab Jamahiriya, Nepal, Niger, Slovenia, Syrian Arab Republic, Yemen.

Convention No. 132: Holidays with Pay (Revised), 1970

Iraq (ratification: 1974)

The Committee notes with regret that the Government's report does not reply to its previous comments. It is again raising certain questions in relation to Article 6, paragraph 1; Article 8, paragraph 2; Article 9, paragraph 1; and Article 11 of the Convention in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Finland, Iraq, Slovenia.

Convention No. 133: Accommodation of Crews (Supplementary Provisions), 1970

Requests regarding certain points are being addressed directly to the following States: Germany, Italy, Poland, Russian Federation, Sweden and Uruguay.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

France (ratification: 1978)

For a number of years the Committee has been drawing the Government's attention to the need to adopt, by means of legislation, digests of practical guidelines or any other appropriate instruments, provisions to ensure the protection of seafarers against accidents that may be caused by machinery or by anchors, chains and lines (Article 4, paragraph 3(c) and (g), of the Convention), and to ensure the supply and use of personal protective equipment (Article 4,

paragraph 3(i)). These provisions should state clearly and formally that shipowners and seafarers, and other persons concerned, must comply with the provisions on safety and accident prevention (Article 5). The text or a summary of the provisions on accident prevention must be brought to the attention of seafarers (Article 6, paragraph 4). Their attention must also be brought to particular hazards by appropriate measures (Article 9, paragraph 2).

In its last report, received by the Office in May 1992, the Government refers to the provisions of the national legislation, referred to in its previous report, governing the activities of the various commissions and committees in the area of the prevention of occupational accidents of seafarers. It also refers to the provisions of the national and European legislation concerning general aspects of occupational safety. However, these texts do not ensure the implementation of the specific measures prescribed in the provisions of the Convention referred to, which should promote safety at work for seafarers. The Committee again expresses the hope that the necessary measures will be taken in the very near future to give effect to the Convention on these points.

Nigeria (ratification: 1973)

The Committee notes the Government's report for the period ending 31 July 1992.

Article 2 of the Convention. In its previous report, the Government had supplied details concerning accidents in which lives were lost on Nigerian ships from 1983 to February 1989; the Government indicated that accidents on board ships were reported only when the ship sustained structural damage or when there was loss of life or serious injury; however, private and government shipping companies kept records of minor accidents. The Committee then pointed out that under Article 2, paragraph 2 of the Convention, all occupational accidents shall be reported and statistics shall not be limited to fatalities or to accidents involving the ship. The Committee accordingly expressed the hope that records of minor accidents kept by private and government shipping companies would be integrated into reporting procedures and statistics and that, in accordance with Article 2, paragraph 1, the Government would take the necessary measures to ensure that occupational accidents are adequately reported and investigated, and comprehensive statistics of such accidents kept and analysed. The Committee notes with interest the Government's indication in its latest report that the necessary measures will be taken. The Committee accordingly hopes that the Government will soon supply copies or relevant extracts of reports of inquiry into occupational accidents, as well as samples of statistics compiled in conformity with the provisions of the Convention.

Article 3. The Committee earlier noted the Government's indication that no research had been conducted into the causes and prevention of accidents aboard Nigerian ships; however, it appeared from the Government's report that several accidents involving loss of life were caused by the severance of stage ropes or the sudden cut of the mooring ropes, and that, furthermore, all the accidents reported

occurred when the ships were anchored in ports or when they were about to be moored. The Committee notes the Government's statement in its latest report that the necessary measures will be undertaken for research to be conducted into the causes and prevention of accidents aboard Nigerian ships. The Committee hopes that research will thus be undertaken into the general trends and hazards revealed by statistics, in order to provide a sound basis for the prevention of accidents which are due to particular hazards specific to maritime work, and that the Government will soon provide detailed information on progress made in this respect.

Articles 4 and 5. In previous comments, the Committee had asked the Government to provide copies of any rules in force under the Merchant Shipping Act for the prevention of accidents which cover the various matters listed in particular in these Articles. The Committee had taken note of the provisions of the Merchant Shipping (Fire Appliances) Rules, 1967, which give effect to Article 4(3)(f) of the Convention, and the Merchant Shipping (Life-Saving Appliances) Rules, 1967, supplied by the Government. It hopes that the Government will soon be able to supply details of similar provisions adopted or contemplated to prevent occupational accidents and covering the specific field of stage and mooring ropes (Article 4(3)(h)) as well as the various matters listed in Article 4(3)(a), (b), (c), (d) and (i).

Article 7. The Committee previously noted the Government's indication in its report for the period ending 31 December 1988 that it is the responsibility of national surveyors and engineers, who were crew members on board, to conduct inspection on board ship, and that there was also a safety or accident committee on board, chaired by the Master, with the Chief Engineer, the Chief Officer, the Second Engineer and the Radio Officer as members; duties are assigned to each member, meetings are held at specified intervals and proceedings are documented in the official log book. The Committee hopes that the Government will supply a copy of a statutory instrument making provision for the practice described.

Articles 8 and 9. The Committee previously noted the Government's indication in its report for the period ending 31 December 1988 that senior officers on board Nigerian ships do give lectures and conduct exercises on accident prevention for other crew members on specified periods. The Committee hopes that the Government will supply further details concerning the tripartite establishment and implementation of programmes for the prevention of occupational accidents (Article 8) and the inclusion of instruction in accident prevention and health protection in the curricula of vocational training institutions for all categories and grades of seafarers (Article 9(1)).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France, United Republic of Tanzania.

Convention No. 135: Workers' Representatives, 1971

Costa Rica (ratification: 1977)

The Committee notes the Government's report.

With reference to its previous comments on the application of Article 1 of the Convention, the Committee notes with satisfaction that Act No. 7360 of 4 November 1993 lays down guarantees against acts of discrimination - including dismissal - against workers' representatives because of their trade union activities, which provide for reinstatement, the quashing of the prejudicial measures and fines of up to 23 months of minimum wages. This protection also applies, where there is no union in the enterprise, to representatives freely elected by the workers.

Furthermore, the Committee asks the Government to provide information on the facilities granted under Article 2 of the Convention to workers' representatives, in practice, in the private sector and the public sector by collective agreements or other means, for example, such as those set out in Recommendation No. 143 referred to below: facilities to enable them to carry out their functions promptly and efficiently; the necessary time off without loss of pay for carrying out their representation functions in the undertaking; access to the management of the enterprise; the right of assembly; the possibility of collecting trade union dues regularly on the premises of the enterprise; authorization to post trade union notices; the right to attend meetings, or such material facilities and information as may be necessary for the exercise of their functions.

Iraq (ratification: 1972)

The Committee notes with regret that the Government's report contains no new answers to its previous direct requests for more detailed information on the application of Article 2 of the Convention. It notes in particular that no copies were provided of agreements concluded between trade union organizations and employers, which the Government referred to in its previous report and which, according to the Government, afford facilities to members of trade union committees to carry out all activities necessary to the performance of their trade union duties.

In these circumstances, the Committee is bound once again to draw the Government's attention to the terms of Article 2 under which facilities must be afforded in the enterprise to workers' representatives (such as the necessary time off to attend meetings, training courses and trade union seminars, conferences and congresses; access to working places when necessary; space to post trade union notices, etc., as indicated in Chapter IV of Recommendation No. 143).

Noting that under the Trade Union Act (No. 52) of 1987 which establishes trade union monopoly, the General Confederation of Trade Unions, the central organization designated in the law, pays the wages of full-time trade union officials (sections 41 and 27(7)) and not the

employer, the Committee draws the Government's attention to the fact that facilities must be afforded in enterprises to workers' representatives to enable them to carry out their functions promptly and efficiently, and in full independence so that they may defend the economic, social and occupational interests of the workers.

The Committee is bound to ask the Government once again to provide with its next report the texts of any agreements concluded between trade unions and employers which afford workers' representatives in enterprises the above-mentioned facilities, as well as any other relevant information on the practical effect given to Article 2.

Jordan (ratification: 1979)

The Committee takes note of the Government's report.

With reference to the comments it has been making for many years on the need to adopt measures to ensure the application of Article 2 of the Convention, the Committee notes the Government's statement in its report that during discussions on the draft Labour Code account was taken of the need to entitle workers' representatives to engage in trade union activities in the enterprise in order that they may carry out their functions and without such entitlement impairing the efficient running of the enterprise.

The Committee notes that the draft Labour Code which has been in the process of preparation since 1982 has still not been enacted and that no legislative provisions, regulations or agreements appear to have been adopted to give effect to Article 2. Consequently, it must once again ask the Government to take measures at the earliest possible date to enable workers' representatives to carry out their functions promptly and efficiently (in the light of the examples set out in Recommendation No. 143 such as: granting them time off to carry out their functions and attend meetings, training courses, seminars, conferences and congresses; and giving them access to all work places and to the management, and facilities to collect trade union dues and display notices). It asks the Government to indicate the measures taken in this respect in its next report.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Rwanda, Slovenia, Yemen.

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

Convention No. 136: Benzene, 1971Côte d'Ivoire (ratification: 1972)

The Committee notes the information provided in the Government's report which refers to Decree No. 67-321 of 21 July 1967. In comments it has been making since 1976, the Committee has noted that a number of provisions of the Convention are not applied by the legislation in force. Since 1984, the Government has referred to the text of a draft Decree which was to be adopted in order to bring Decree No. 67-321 into conformity with all provisions of the Convention. Once again, the Committee notes that the Government's latest report makes no mention of the draft Decree and merely refers to the legislation which, as the Committee has already noted, does not satisfy the full application of the Convention. The Committee trusts that the Government will shortly take the necessary measures, through adoption of the draft Decree or otherwise, to ensure that effect is given to the following Articles of the Convention:

Articles 1 and 4 of the Convention. In earlier comments, the Committee noted that section 4 D 453 of Decree No. 67-321 of 21 July 1967 prohibited the use of benzene as a solvent, but defined products containing benzene for this use in terms of the level of distillation. In its latest report, the Government indicates that the distillation curve and the composition of solvents set forth in section 4 D 453 is mandatory according to the standards made uniform by decree of the Minister of Employment and Public Service after consultation with the technical advisory committee on the safety and health of workers. The Committee must, however, once again recall that, under Article 1, the provisions of the Convention are to be applied to benzene and products the benzene content of which exceeds 1 per cent by volume, regardless of the level of distillation. The Committee once again expresses the hope that the necessary measures be taken to ensure that the prohibition of the use of benzene or products containing benzene as a solvent, established in section 4 D 453, be amended so as to strictly cover the use as a solvent of all products containing more than 1 per cent by volume of benzene.

Article 2, paragraph 1. The Government indicates that, while there are no measures in national legislation to ensure that the use of benzene or products containing benzene be replaced by harmless or less harmful substitute products whenever such products are available, this would be ensured through specific safety and health measures applicable in establishments. The Committee trusts that the Government will take the necessary measures, by means of legislation or otherwise, to ensure that this Article of the Convention is applied.

Article 6, paragraph 2. The Government has indicated in its report that ventilation or aspiration is provided in the workplace to ensure that the level of benzene vapour in the air does not exceed 80 mg/m³. The Committee would recall that this provision of the Convention calls for a maximum limit to be set by the competent authority for the level of concentration of benzene vapour in the air not to exceed 80 mg/m³. The Government is requested to take the necessary measures to ensure that this level is not surpassed.

Article 8, paragraph 1. The Committee notes from the Government's report that, in all types of activities involving exposure to benzene, workers must be provided with personal protective equipment, such as respiratory masks. The Committee would once again recall that this Article of the Convention calls for personal protective equipment to be provided for workers who may, for special reasons, be exposed to concentrations of benzene in the air of places of employment exceeding the maximum permissible level set forth in Article 6, paragraph 2, of the Convention and requests the Government to indicate the measures taken to ensure that this protective equipment is provided.

Article 11, paragraph 2. In its previous comments, the Committee noted that the recommendations to doctors annexed to Part XVII, Chapter II, Title II of the Labour Code provides that there is reason to consider young women under the age of 18 as unfit for work likely to cause benzene poisoning and the same recommendation applies to young men under 18, unless special medical authorization is given. The Committee noted from the Government's previous report that this recommendation was binding. In its latest report, the Government indicates that there is no legal provision formally prohibiting young persons under the age of 18 from work involving exposure to benzene, nor is there any provision requiring special medical authorization for persons undergoing education or training involving exposure to benzene. The Committee would recall that this Article of the Convention provides that young persons under the age of 18 shall not be employed in work processes involving exposure to benzene, with the exception of young persons undergoing education and training who are under adequate technical and medical supervision. The Government is requested to indicate the measures taken or envisaged to ensure the application of this Article of the Convention.

Morocco (ratification: 1974)

The Committee takes note of the discussions held in the Conference Committee in 1993. It notes, in particular, the Government's indication that a draft Decree had been prepared to complete the legislation with respect to occupational exposure to benzene and had been communicated to the employers' and workers' organizations for comment. The Committee further notes that the Government has requested the Office to provide technical assistance in the early part of this year to give advice on occupational safety and health policy and the measures to be taken to bring legislation into conformity with ratified occupational safety and health Conventions. The Committee trusts that the Decree will be adopted in the near future and that it will ensure the full application of the Convention, in particular, Article 8, paragraph 1, of the Convention which provides that adequate means of personal protection against the risk of absorbing benzene through the skin is to be provided to workers who

may have skin contact with liquid benzene or products containing benzene.

* * *

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

Convention No. 137: Dock Work, 1973

Spain (ratification: 1975)

Article 2, paragraph 2, of the Convention. 1. With reference to its earlier comments in which the Committee noted the observations of the Canary Islands Nationalist Autonomous Confederation (CANC), endorsed by the National Federation of Dockworkers, concerning the situation of workers enrolled in the Special Register of Dockworkers of Las Palmas, the Committee notes the information, including statistics, concerning the developments of the situation in the port of Las Palmas. The Government indicates that the situation in the above-mentioned port has not been developing in a favourable way and that, in the foreseeable future, the employment level is not likely to increase. As regards the possibility of guaranteeing workers enrolled on the Special Register "minimum periods of employment or a minimum income in a manner and to an extent depending on the economic and social situation of the country and port concerned", as required by this provision of the Convention, the Committee observes that no information has been supplied by the Government on this point. It therefore trusts that the Government will provide the information requested on this point, in its next report.

2. With reference to the observations of the Inter-Union Centre of Galicia (CIG) concerning the situation of non-registered workers engaged on a casual basis by private stevedoring companies in the Galician ports of La Coruña and Vigo, which were noted in its previous comments, the Committee notes the Government's general statement to the effect that the provisions of the Convention concerning the minimum periods of employment or minimum income to be assured for dockworkers, are complied with. It would be grateful if, in its next report, the Government would describe in more detail the conditions of employment of dockworkers recruited on a casual basis by private stevedoring companies, indicating, in particular, the minimum periods of employment or minimum income assured to this category of workers and the manner in which they are assured, in accordance with this Article.

Article 6. The Committee asks the Government to continue to supply information on measures taken to ensure that appropriate

safety, health, welfare and vocational training provisions apply to dockworkers, as required by the report form under this Article.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Guyana, Portugal, Uruguay.

Convention No. 138: Minimum Age, 1973

Belarus (ratification: 1979)

The Committee notes the information supplied by the Government in its reports under Conventions 79 and 90 to the effect that under the Labour Code of the Republic of Belarus it is unlawful to conclude a work contract with a juvenile of less than 16 years of age. Section 173 of the Code authorizes the conclusion of contracts with persons of over 14 years of age subject to the written consent of a parent or persons acting in loco parentis.

The Committee also notes the information supplied by the Government in its report submitted under article 44 of the Convention on the Rights of the Child (CRC/C/3/Add.14) to the effect that Parliament passed the Rights of the Child Act at its first reading. Section 2 of the above Act provides that the Act is, "after the Constitution of the Republic of Belarus, the basis of other legislation relating to the rights and interests of children". The Committee notes that under section 21(1) of the above Act, the child "may with the consent of the parents or persons acting in loco parentis be admitted to suitable employment, combined with his or her studies, from the age of 12". It also notes the Government's explanations in the above-mentioned report that the minimum age for admission to employment was set at 12 years on the basis of physiological and medical data which indicate that the small muscles of the hand are fully formed at this age. The Government also refers to a poll carried out in 1990 in the former Soviet Union by the staff of the Child Research Institute of the USSR Academy of Pedagogical Sciences, which put the optimum age for admission to wage earning at 12 years.

The Committee asks the Government to indicate whether the Rights of the Child Act, adopted by Parliament at its first reading, has been promulgated, and to provide a copy of it. It asks the Government to indicate the measures taken to ensure observance of the provisions of the Convention which provides for an exemption from the minimum age for admission to work for persons of 13 to 15 years of age, engaged in light work (Article 7 of the Convention).

[The Government is asked to report in detail for the period ending 30 June 1994.]

Dominica (ratification: 1983)

The Committee notes from the Government's report that the national laws have not been amended to give effect to the minimum age for admission to employment or work, which was specified to be 15 years when the Convention was ratified by Dominica. The Committee hopes that a detailed report will be supplied for examination by the Committee and that it will contain full information on the matters raised in its previous comments, which the Committee raises once again in a request directly addressed to the Government.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Antigua and Barbuda, Belgium, Dominica, France, Guatemala, Malta, Niger, Romania, Spain, Sweden, Venezuela.

Convention No. 139: Occupational Cancer, 1974Guyana (ratification: 1983)

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

1. In comments it has been making since 1988, the Committee noted that only ionizing radiations from medical and dental use had been subject to control, and that no other carcinogenic substance had been prohibited or made subject to control. However, the Government indicated in 1988 that the occupational health and safety sector of the Ministry of Labour was being restructured, that consultations were taking place on a repeal and re-enactment of the Factories Act and that with the completion of this exercise it was hoped that other areas of occupational exposure would be covered by control and supervision.

The Committee once again requests the Government to supply details concerning the restructuring, its effect on the application of the Convention, as well as developments concerning the repeal and re-enactment of the Factories Act.

In this connection, the Committee urges the Government to ensure that the necessary steps are taken in consultation with the most representative organizations of workers and employers concerned, as required by Article 6(a) of the Convention to ensure the application of the following provisions of the Convention: Article 1, paragraph 1 (determination of carcinogenic substances or agents to which occupational exposure is prohibited or made subject to authorization or control); Article 2 (the replacement of carcinogenic substances and agents by less harmful substances or agents, and the reduction to the

minimum of the number of workers exposed and the level and duration of exposure); Article 3 (the protection of workers against the risks of exposure and establishment of an appropriate system of records); Article 4 (information to be provided to workers on the dangers involved and the measures to be taken); and Article 5 (medical examinations and biological and other tests and investigations for exposed workers).

The Committee once again expresses the hope that the Government will now report progress made in this regard.

2. In its previous comments, the Committee also had referred to additional measures to be taken in respect of ionizing radiations for medical and dental use to give effect to Article 1, paragraph 3 and Article 5 of the Convention. The Committee noted from the Government's report for 1989 that no progress had been made in these fields. It again expresses the hope that the Government will soon be in a position to report progress in applying the 1978 revised United Kingdom Code of Practice for the Protection of Persons against Ionising Radiations from Medical and Dental Use, and in ensuring that workers shall be provided with medical examinations during the period of their employment and thereafter as are necessary to evaluate their exposure and the state of their health in relation to the occupational hazards. On this point, the Committee would also refer the Government to its general observation for 1992 under this Convention.

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

Nicaragua (ratification: 1981)

The Committee notes the information provided in the Government's latest report and the adoption of the Ministerial Resolution on Occupational Safety and Health, 1993. The Government has indicated that this resolution will provide a framework within which other specific aspects of occupational safety and health can be regulated and recalls that section 3, paragraphs 1 and 2 of the resolution calls upon the Minister of Labour to determine minimum occupational safety and health requirements for, among others, chemical, physical and biological risks.

The Committee would recall that, since its ratification, no provisions have existed to give effect to the Convention. In its report for 1987, the Government indicated that special efforts were being made to establish standards on the safety measures to be taken to prevent the risks of occupational cancer.

The Committee hopes that the necessary steps will be taken in the very near future, in consultation with the most representative organizations of employers and workers concerned, as called for by Article 6(a) of the Convention, to ensure that effect is given to the following provisions of the Convention: Article 1 (periodical determination of carcinogenic substances and agents to which occupational exposure is prohibited or made subject to authorization or control); Article 2 (replacement of carcinogenic substances and

agents by others less harmful and reduction of the duration of exposure and the number of workers exposed); Article 3 (special measures of protection against the risks of exposure and establishment of a system of records); Article 5 (medical or biological examinations of the workers concerned during the period of employment and thereafter as necessary).

* * *

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

Convention No. 140: Paid Educational Leave, 1974

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Iraq, San Marino, United Republic of Tanzania.

Convention No. 141: Rural Workers' Organisations, 1975

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

Convention No. 142: Human Resources Development, 1975

Requests regarding certain points are being addressed directly to the following States: Guyana, Tunisia.

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Bahamas (ratification: 1979)

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

The Committee recalls that genuine consultations should be held frequently so that each of the questions listed in Article 5, paragraph 1, of the Convention may be examined when necessary, in accordance with the principle of "effective consultations" set forth in Article 2. Certain subjects (replies to questionnaires, submission to the competent authorities, reports to be made to the ILO under article 22 of the Constitution of the Organization) imply annual consultations, whereas other subjects (for example,

proposals for the denunciation of ratified Conventions), arise less frequently.

In these circumstances, the Committee again requests the Government to describe the measures taken or under consideration to hold regular consultations on these matters. It also requests the Government to furnish detailed information concerning the consultations held (during the period covered by the next report) on the various matters listed in Article 5, paragraph 1, specifying the results that these consultations have led to.

Moreover, the Committee recalls that according to Article 6, representative organizations of employers and workers should be consulted on the necessity of producing an annual report on the working of the procedures provided for in the Convention. It requests the Government to state whether such consultations have taken place and, in the affirmative, to provide information on any results.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Côte d'Ivoire, Ecuador, Malawi, Venezuela and Zimbabwe.

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

Requests regarding certain points are being addressed directly to the following States: Finland and Kenya.

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

Belgium (ratification: 1982)

Article 2(a) of the Convention (Convention listed in the Appendix to Convention No. 147, but not ratified by Belgium):

Convention No. 134, Article 7. Further to its previous comments, the Committee notes the Government's report, which restates that it was the committees established under Royal Decree of 12 December 1957 and initially entrusted by the 1980 collective agreement with the supervision of provisions on board ship that, by virtue of amendments of 13 June 1984 introduced by the joint committee for the merchant marine, are responsible for accident prevention, as required by this Article. The Committee recalls the requirement that there should be legislation in this respect, and in the meantime would be grateful if the Government would provide copies of the said collective agreements and the amendments of 13 June 1984, none of which was received by the Office.

Article 2(f). Further to its previous comments, the Committee notes that the Government provided no information as regards the inspection of Belgian-registered vessels in terms of the Convention, as requested in the report form adopted by the Governing Body. In view of the extreme importance of this question, as indicated in the previous observation, the Committee would be glad if the Government would make the necessary effort to provide the data to which the report form refers.

Article 2(g). The Committee notes the brief information provided by the Government in reply to its previous comments. It hopes future reports will show the measures taken as a result of the inquiries into serious accidents mentioned.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Denmark (ratification: 1980)

The Committee notes with interest the information provided in reply to its previous comments (Article 2(f) and (g) of the Convention) and the reports transmitted under Article 4 on inspections of foreign-registered vessels conducted in accordance with the Memorandum of Understanding on Port State Control (MOU). It hopes that future reports will regularly contain such particulars as well as further information on the size of the inspection staff, numbers and results of inspections, and investigations of complaints and penalties imposed, as required by the report form approved by the Governing Body.

France (ratification: 1978)

1. The Committee notes that the Government's report does not contain replies to its previous comments requesting more specific information on the application of Article 2(f) of the Convention, in particular the number and results of inspection visits and complaints concerning labour standards on board ship, as well as information on any inquiries held into serious marine casualties and the measures taken as a result of such inquiries (Article 2(g)). The Committee hopes the Government will not fail to send full details in this respect as requested in the report form.

2. The Committee notes the comments made by Confederation Française Démocratique du Travail (CFDT) pointing out that the Government's report rather concerned Convention No. 134; the CFDT would have liked to have information on measures taken by the Government to ensure social security cover for non-resident seafarers, as required by Article 2(a)(ii) and (b)(ii) of the Convention. It hopes the Government will provide full particulars in this regard.

3. The Committee notes that the brief information provided as regards this and certain other maritime Conventions in respect of France also applies for certain non-metropolitan territories.

[The Government is asked to report in detail for the period ending June 1994.]

Japan (ratification: 1983)

Article 2(a) of the Convention. (Conventions listed in the Appendix to the present Convention but not ratified by Japan.)

- Convention No. 53. Article 3. 1. Further to its previous comments, the Committee notes the Government's views that the advances in maritime equipment since the time of the Convention obviate the need to restrict watchkeeping to officers, and that unlicensed watchkeeping under the supervision of a licence-holder is allowed.

2. The Japan Federation of Coastal Shipping Associations concurs with the Government and states that the decision to entrust the navigation watch to a rating independently and under the supervision of an officer is taken by the captain in the light of the circumstances. It considers coastal navigation safe and in compliance with the Convention.

3. The All Japan Seamen's Union points out that large numbers of coastal vessels are involved and it urges the Government to ensure watchkeeping is performed by licensed officers: this is regarded as especially needed because such vessels are habitually placed under the watch of a rating in the deck department for very long hours.

4. The Committee refers again to paragraphs 85 to 87 of its 1990 General Survey of Convention No. 147, and the requirement that no person should perform the duties of navigating officer-in-charge of a watch unless they hold a certificate of competency to do so. Whilst it understands the Government's indication that watchkeeping must take place "under the supervision" of a licence-holder, this does not, according to the Government, always mean the unlicensed crew member acts together with the officer, even though the Government indicates that safety is not impaired. The Committee hopes consultations between the Government and shipowners' and seafarers' organizations will help produce an agreed solution; and that the Government will provide practical details of the inspection and other measures taken to ensure that safety is not prejudiced.

The Committee is again referring to other matters, including inspection, in a direct request.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Liberia (ratification: 1981)

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

The Committee notes that the Government has not yet communicated a detailed report on the Convention. It has also noted that direct contacts took place in 1989 between the Government and a mission from the Director-General of the ILO relating to the present Convention, amongst others.

The Committee would be grateful if the Government would provide a detailed report on the Convention in the form approved by the Governing Body. Having regard to Article 2(f) of the

Convention, it hopes that the Government will describe inspection and other arrangements - at home or abroad - whereby it ensures that ships registered in Liberia comply with applicable international labour Conventions which it has ratified (in particular Nos. 22, 23, 53, 55, 58, 87, 92, 98 and 108) and with the laws and regulations required under Article 2(a) of the present Convention (including those ensuring substantial equivalence to Convention No. 73, Article 5 of Convention No. 68, and Articles 4 and 7 of Convention No. 134). It hopes the Government will also indicate, as requested in the report form, the size of inspection staff, the numbers and results of inspections and investigations of complaints, and any penalties imposed.

The Committee is dealing with further matters in a direct request.

Norway (ratification: 1979)

Further to its previous comments, the Committee notes with interest the information provided by the Government and the copies of laws and regulations relating to inspection and other verification arrangements (Article 2(f) of the Convention). Please include in future reports details on the functioning of these arrangements, giving particulars of the size of the inspection staff, numbers and results of inspections and investigations of complaints, and penalties imposed, as required by the report form.

Portugal (ratification: 1985)

Article 2(a)(i) of the Convention. (Conventions listed in the Appendix to Convention No. 147 but not ratified by Portugal):

- Convention No. 134. The Committee notes that the Government's report does not contain replies to its previous comments relating to the absence of legal texts laying down safety standards for the prevention of accidents on and below deck, and in connection with loading and unloading equipment; anchors, chains and lines; and ballast (Article 4(3)(d), (e), (g) and (h)). The Committee trusts the Government will not fail to indicate the measures proposed to ensure that there are laws and regulations on these important matters - as well as for the appointment of a suitable person or suitable persons or a suitable committee from among the crew, responsible under the master for accident prevention (Article 7) - in accordance with Article 2(a) of Convention No. 147.

Article 2(f). Further to its previous comments, the Committee notes with interest the adoption of Legislative Decree No. 319/93 of September 1993 constituting the organic law of the Directorate-General of Ports, Navigation and Maritime Transport. It shares the Government's hope that this and the adoption of Legislative Decree No. 285/93 of August 1993 regarding food and catering will permit it to provide more precise and detailed information as to the functioning of the inspection arrangements, including results of inspections and

investigations of complaints and penalties imposed, as requested in the report form.

Article 2(g). The Committee notes the Government's report does not contain replies to its previous comments. It trusts the Government will include in future reports the information requested in the report form as to the numbers of inquiries into serious marine casualties held, and the measures taken as a result.

[The Government is asked to report in detail for the period ending 30 June 1994.]

United Kingdom (ratification: 1980)

The Committee notes the information provided in reply to its previous comments.

Article 2(a)(i) of the Convention. Hours of Work. The Committee notes that, in the light of comments received in an earlier consultation, revised draft regulations for the United Kingdom registered seagoing ships have recently been circulated for full public consultation. These regulations will require the working hours and rest periods of masters engaged in watchkeeping and of seafarers and senior officers to be laid down by shipowners in a schedule of duties to be produced and displayed on all vessels. The Trades Union Congress (TUC) has referred to the urgent need to legislate in respect of hours of work in order to comply with the Convention; moreover, it considers the draft regulations seriously flawed in that they do not set maximum hours of work, or define what is safe; nor do they lay down the necessary support and protection for safety officers and masters taking action to avoid fatigue, or apply to ratings other than watchkeepers. The TUC recommends a 12-hour day and guaranteed eight hour rest period for all ratings, and calls also for legislation on paid leave. The Committee recalls that Article 2(a)(i) requires each ratifying Member to have laws or regulations for ships registered in its territory on safety standards, including hours of work. It recalls the need for the regulations in the light of safety demands to lay down reasonable levels of normal daily hours of work and the maximum length of overtime at sea for all officers and ratings (not only watchkeepers) (see paragraph 96 of its General Survey of the Convention of 1990). The Committee does hope that all these factors will be taken into consideration and the Government will supply full details.

Article 2(a) (Conventions listed in the Appendix to Convention No. 147 but not ratified by the United Kingdom.)

- Convention No. 73, Article 1(3)(a). The Committee notes that the Government continues to hold that the provisions of Convention No. 73 specifying application of medical examination to seafarers on ships larger than 200 GRT are not relevant to Convention No. 147. The TUC also states that there are no practical difficulties in the exclusion of vessels of up to 1,600 GRT as regards masters and officers - who are issued certificates in any event - although stricter requirements should be accepted for ratings. The Committee notes with interest that in May 1993 the Merchant Shipping (Local Passenger Vessels) (Masters' Licences

and Hours, Manning and Training) Regulations 1993 were introduced, and that consideration is now being given to undertaking another consultation with the industry with a view to requiring seafarers on seagoing vessels below 1,600 GRT to carry medical certificates. The Committee hopes these consultations will have due regard to its earlier comments as to the significance of substantial equivalence in Article 2(a) of Convention No. 147, in relation to the large discrepancy between the Merchant Shipping (Medical Examination) Regulations of 1983 (excluding vessels below 1,600 GRT) and the provision of Convention No. 73 permitting exclusion of vessels below 200 GRT only, and that the Government will supply full details.

- Convention No. 73, Article 5(1). The Committee notes that the Government continues to consider that raising the frequency of medical examinations for seafarers in any way (from every five years) would be tantamount to full compliance with the requirement of the unratified Convention No. 73 (every two years). The Government states that there has been no pressure from employers or seafarers to make any change in this respect, and that there is no evidence that the practice is medically unsound. The Committee has earlier observed that Convention No. 147 does not require literal compliance with every provision of Convention No. 73, but that closer conformity (substantial equivalence) with Article 5(1) of the Convention is called for. The Committee hopes the Government will keep the matter under review with the relevant employers' and workers' organizations and supply information on further developments.

Article 2(f). The Committee notes the TUC's statement that 70 per cent of vessels are not inspected and that the adequacy of 17 full-time staff of inspectors is questionable. The TUC remarks that if Convention No. 147 is to have meaning it must be better accepted in principle and enforced. The Committee welcomes the information again provided by the Government - especially regarding food and catering - and hopes further details will be sent with future reports.

Article 2(a)(ii). The Committee notes the TUC's statements that the levels of social security benefits in the United Kingdom are lower than in other European Union countries; and that the Government has not implemented the recommendations of the Industrial Injuries Advisory Council that work in ships' engine rooms should be added to the list of prescribed occupations. No doubt the Government will deal with these questions in its next report.

Article 2(e). The Committee notes the TUC's view that, despite the continued decline of the United Kingdom fleet, funding made available for training is wholly inadequate. It hopes the Government will deal further with this question in its next report, having regard to the Convention's requirements.

Article 4. The Committee notes the TUC's reference to the derecognition of two British seafarers' unions in the case of Geest Line Ltd., depriving them of the ability to take part in free collective bargaining; it states that the United Kingdom Government took no action in that case. The Committee recalls the Convention's provisions as to port state action in cases where foreign-registered

vessels fail to comply with minimum standards. It hopes the Government will provide all due information.

[The Government is asked to report in detail for the period ending 30 June 1994.]

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Finland, Germany, Japan, Liberia and the United States.

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977

Brazil (ratification: 1982)

The Committee has noted the information provided in the Government's report received by the Office on 5 January 1994. It further notes the comments made by the Trade Union of Chemical and Petrochemical Industry Workers (SINDIPOLO) received by the Office on 1 November 1993 and hopes the Government will supply detailed information in reply to SINDIPOLO's comments for examination at its next session.

The Committee is raising other points in a request addressed directly to the Government.

[The Government is requested to report in detail for the period ending 30 June 1994.]

Costa Rica (ratification: 1981)

The Committee notes the information provided by the Government in its latest reports, in particular the measures taken as part of the reorganization of the National Council for Occupational Health to establish inter-institutional committees for the revision of occupational safety and health standards. The Government has also indicated that a study was undertaken of the existing regulations with respect to air pollution, noise and vibration, but that a formal draft revision had not yet been proposed. The Committee further notes with interest the Government's indication that ILO technical assistance has been requested with the aim of bringing the regulations concerning air pollution, noise and vibration up to date and drafting overall regulations on occupational safety and health. In this regard, the Government may also wish to give consideration to adopting technical standards or codes of practice for the practical implementation of the laws and regulations to be adopted in accordance with Article 4, paragraph 2 of the Convention. The Committee hopes that the necessary measures will be taken in the near future and that they will ensure the application of the following Articles:

Article 8, paragraphs 1 and 3

1. Air pollution. The Committee notes with interest Decree No. 21406-S of 22 June 1992 regulating the registration and control of toxic substances and products and dangerous substances, products and objects. It further notes that section 12 of Decree No. 21406-S sets forth a classification list and definition of dangerous and toxic substances, while section 8 empowers the Minister of Labour to cancel or deny registration for the use of such substances when, among others, the product is considered to be highly dangerous to human beings or domestic animals. The Government has also indicated, in its report, that the criteria defined by international organizations with respect to air pollution is followed in the country. The Government is requested to indicate, in its next report, the specific international criteria with respect to air pollution to which it refers and the exposure limits, if any, specified on the basis of these criteria. The Government is also requested to indicate the manner in which these criteria, and any exposure limits, are periodically reviewed, in the light of current national and international knowledge and data.

2. Vibration. The Committee notes that Decree No. 10541-TSS of 14 September 1979 regulating the control of noise and vibration only sets forth general provisions concerning the reduction of vibrations. The Government is requested to indicate, in its next report, the measures taken to establish criteria for determining the hazards of exposure to vibrations in the working environment and any exposure limits specified on the basis of these criteria.

Article 9. In comments it has been making since 1985, the Committee has requested the Government to indicate the steps taken to prescribe technical measures for design or installation or, where this is not possible, supplementary organizational measures, for the protection of workers against the hazards due to air pollution. The Government is requested to indicate, in its next report, the steps taken or envisaged to ensure the application of this Article of the Convention in respect of air pollution.

Article 11, paragraphs 1 and 2. In previous comments, the Committee has requested the Government to indicate the steps taken to ensure that pre-assignment and periodical medical examinations are provided to workers without cost to them. The Government has indicated that, at present, no obligation rests upon the employer to submit employment applicants to medical examinations, although some employers do provide for such examinations prior to and periodically during the course of employment. As concerns periodical examinations, the Government has indicated that the health of workers is supervised when the competent authority considers it necessary (for example, when: exposure limits have been exceeded; minimum safety standards have not been met; technical control measures are not the most adequate). The Committee would recall that, under this Article of the Convention, pre-assignment and periodical medical examinations are to be provided to workers who are exposed or liable to be exposed to occupational hazards due to air pollution, noise or vibration and these examinations are to be free of cost to the worker concerned. The Government is requested to indicate, in its next report, the

measures taken or envisaged to ensure that workers exposed to these hazards are provided with pre-assignment and periodical medical examinations, in accordance with this provision of the Convention.

Article 12. In its previous comments, the Committee has requested the Government to indicate the processes, substances, machinery and equipment, to be specified by the competent authority, the use of which must be notified for authorization to be granted under prescribed conditions or for prohibition. The Government indicated in its report for the period ending June 1985, that a list of dangerous substances was being prepared as part of the National Occupational Safety Plan (1985-90). In its latest report, the Government has indicated that, due to insufficient staffing on the Occupational Health Council, the preparation of a list of dangerous substances has been postponed. The Government is requested to indicate, in its next report, the progress made in establishing a list of processes, substances, machinery and equipment, involving the exposure of workers to air pollution, noise or vibration, the use of which is to be notified to the competent authority for authorization, control or prohibition.

Finland (ratification: 1979)

The Committee notes with interest the information provided in the Government's report in reply to its previous observation with respect to penalties imposed in accordance with Article 16 of the Convention. It further notes the statements made by the Confederation of Finnish Industry and Employers (TT), the Employers' Confederation of Service Industries (LTK) and the Central Organization of Finnish Trade Unions (SAK), communicated with the Government's report concerning the application of the Convention.

In its previous comments, the Committee had noted the concerns raised by the Finnish workers' organizations (SAK and TVK) that the measures taken by the Government were insufficient for meeting the requirements of Article 8 because there were not enough limit values with respect to air pollution, noise and vibration which were legally binding on the employers. In this regard, the employers' organizations had stated that the creation of the Council for the Assessment of Health Risks of Chemicals and the Chemical Labour Protection Advisory Council had improved the administrative arrangements necessary for the application of this Article of the Convention.

In its latest report, the Government refers to the Council of State Decision (920/92) which provides that the Ministry of Labour may fix concentrations of airborne impurities known to be dangerous which the employer must take into account when assessing the hazards of the workplace and workers' exposure (section 6). By virtue of this Decision, these concentrations must be set in the light of scientific knowledge and, in particular, must take into account the reference limit values published by the Commission of the European Communities. Furthermore, section 5 of the Decision provides that the Council of State shall, if necessary, separately fix binding limit values for

workplace air impurity which, if exceeded, shall require the employer to take immediate action to reduce the levels of exposure.

In their latest observations, the Central Organization of Finnish Trade Unions (SAK) states that the grounds used to assess occupational hazards caused by air impurities, noise and vibration are still deficient and that there is still too little monitoring of the working environment and assessment of exposure. In reply, the employers' organizations (TT and LTK) stated that the Convention did not call for binding limit values in a categorical fashion and recalled that Finnish legislation did lay down some binding limit values, for example, with respect to noise exposure.

The Committee would recall that Article 8 of the Convention calls for the competent authority to establish criteria for determining the hazards of exposure to air pollution, noise and vibration in the working environment and, where appropriate, to specify exposure limits on the basis of these criteria. Under Article 4, measures are to be prescribed for the prevention and control of, and protection against, occupational hazards due to air pollution, noise and vibration. Exposure limits may be necessary in order to ensure the effective protection of workers' health with respect to air pollution, noise and vibration. The Committee notes the indication in the Government's report that new limit values will be worked out as scientific grounds for determining the risks posed by chemical substances become clear. The Government has further indicated that the proposals will be processed by the tripartite Chemical Labour Protection Advisory Council. The Committee requests the Government to supply information on any new limit values set either by the Council of State under section 5 of Decision 920 of 1992 or by the Ministry of Labour under section 6.

Spain (ratification: 1980)

The Committee notes with interest the information supplied in the Government's report in reply to its previous observation, in particular, as concerns Article 8, paragraph 3, and Article 9 of the Convention. It further notes the comments made by the General Union of Workers (UGT) transmitted with the Government's report. The Committee requests the Government to provide further information on the following points:

Article 1, paragraph 1. The Committee notes the comments made by the UGT that Royal Decree No. 1316/1989 of 27 October concerning the protection of workers from risks due to occupational exposure to noise does not apply to civil servants and independent workers. It understands, however, by virtue of section 1, that the Decree applies to all workers whatever the type of contract, with the exception of aviation and maritime crews. Since the provisions of this Convention are applicable to all branches of economic activity by virtue of Article 1, paragraph 1, the Government is requested to indicate whether civil servants are indeed covered by the Decree and, if not, to indicate the measures taken to ensure the protection of their health from the harmful effects of exposure to noise. The Government is also requested to indicate the measures taken or contemplated to

ensure the protection afforded by the Convention to aviation and maritime crews.

Article 8, paragraph 1. 1. With reference to its previous comments, the Committee notes with interest the adoption of Royal Decree No. 1316/1989. It further notes the statement made by the UGT that section 4, paragraph 2 of the Decree permits employers who consider that the noise level at the workplace does not surpass 80dBA and 140dB to be exempted from the obligation to measure noise levels. The Committee understands that section 3 of the Decree requires periodic evaluations (at least every three years) of work posts where the daily level of exposure exceeds 80dBA and annual evaluations are to be undertaken where the level exceeds 85dBA. In this regard, workers have the right to be present while such evaluations are undertaken and to be informed of the results and the preventive measures taken. The employers who may be exempted from the obligation to measure exposure levels under section 4, paragraph 2, must consider that exposure levels are largely below 80dBA and 140dB.

The Committee would call the Government's attention to section 7.1 of the ILO Code of Practice on Protection of Workers against Noise and Vibration in the Working Environment which provides that the level of noise in the working environment should be measured whenever: (a) the work undertaken or the workplace is likely to carry a risk of noise; (b) the monitoring of the workplace, of the workers' health, or inspection visits demonstrate that the risk might exist or; (c) the workers feel that they are exposed to levels of noise which bother them or their work. The Government is requested to indicate the measures taken to ensure that the choice to measure the levels of noise exposure in the working environment rests not only with the employer, but may be invoked for the reasons given above, and to indicate, in particular, whether the workers may request that measurements be made of the noise levels in the working environment when they consider that such levels are bothersome to themselves or their work.

2. In its previous observation, the Committee noted a comment made by the Trade Union Federation of Workers' Commissions (CC.OO.) that the new legislation concerning the protection of workers against hazards due to noise did not protect workers from hazards other than those directly affecting the hearing. The Committee called the Government's attention to Appendix 2 of the above-mentioned ILO Code of Practice which referred to the physiological, mental and pathological effects of noise and the distinction between the effects on hearing and the effects on other organs of perception and the general effects. In its comment, the UGT has also stated that the Royal Decree No. 1316/1989 does not take into account other effects which might result from exposure to noise. In its latest report, the Government indicates that the provisions of Royal Decree No. 1316 were drafted taking into account all effects of noise exposure and states that section 1 of the Royal Decree refers to the risks resulting from noise exposure and, in particular, the effects on hearing. The Committee further notes that section 2, paragraph 1, of the Royal Decree provides that the level of noise in the workplace should be reduced to the lowest level technically possible. It requests the Government to continue to provide information on any measures taken at

the level of the enterprise either on the employers' initiative or upon request by the labour inspectorate to reduce noise levels because of the harmful effects other than upon hearing.

Article 13. Further to its previous comments, the Committee notes with interest the information provided in the Government's report. It notes that the draft Act on the prevention of occupational risks based upon EEC Directive No. 89/391 referred to in its previous report is presently the subject of consultation with the social partners and is expected to be adopted shortly. The Government is requested to supply a copy of the text as soon as it is adopted.

Article 14. In its previous comments, the Committee noted the information provided by the Trade Union Federation of Workers' Commissions (CC.OO.) that the budget for the Occupational Safety and Health Institute had been reduced by one-third and the number of personnel of the Institute had been reduced by one-quarter. It notes the indication in the Government's latest report that this reduction has not affected the effectiveness of the Institute since, to the contrary, other factors concerning resource management have permitted a significant improvement in the effectiveness of preventive action without increasing the number of staff. The Government adds that technical and financial resources have not actually been reduced, but have rather been spread out as part of the decentralization process. The Government also refers to a reform which will consider new responsibilities and a more adequate organization of the Institute so that it may better achieve its objectives of inspection in the area of prevention and control of occupational risks. In this regard, the Government is requested to keep the Office informed of the measures taken to restructure the Institute, as well as any other measures adopted to improve the system of inspection in the country.

United Kingdom (ratification: 1979)

With reference to its previous comments, the Committee notes with satisfaction from the Government's report the adoption and entry into force on 11 April 1991 of the Control of Substances Hazardous to Health Regulations (Northern Ireland), 1990, which introduce a comprehensive and systematic approach to the control of hazardous substances at work and, inter alia, set forth maximum exposure limits and provide for health surveillance, including periodic medical and biological monitoring in prescribed circumstances and the monitoring of exposure to substances hazardous to health by persons having the necessary information, instruction and training. Thus, these regulations provide better legislative backing in Northern Ireland for the implementation of Articles 8 and 15 of the Convention in respect of air pollution.

The Committee is raising other points in a request addressed directly to the Government.

Zambia (ratification: 1980)

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

In earlier comments, the Committee noted that there was no legislation which applied the provisions of the Convention. In a report received in June 1988 the Government indicated that the National Council for Scientific Research in conjunction with the Ministry of Commerce and Industry was working on measures to satisfy the requirements of the Convention, including legislation to limit exposure to air pollution, noise and vibration. In 1989, the Committee had expressed the hope that the Government would take all necessary measures in the very near future to give full effect to the Convention and requested the Government to indicate any progress made in this regard.

The Committee notes that, in its report for 1989, the Government, having once again indicated that there was no legislation applying the provisions of the Convention, stated that active measures had been initiated to enact appropriate legislation to cover salient features of the Convention, and that it was anticipated that the next report would contain details of the new legislation. The Committee recalls that, in ratifying this Convention, the Government has undertaken to establish laws or regulations prescribing that measures be taken for the prevention and control of, and protection against, occupational hazards in the working environment due to air pollution, noise and vibration, as required by Article 4 of the Convention and to ensure that measures are taken for the application of all Articles of the Convention. The Committee, therefore, looks forward to examining the legislation announced by the Government as well as information on further measures taken for the full application of the Convention. It hopes that the Government will soon indicate the concrete steps taken in this regard and supply copies of relevant legislative texts.

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

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Cuba, Denmark, Ecuador, Egypt, France, Ghana, Guinea, Iraq, Italy, Malta, Norway, Portugal, Russian Federation, San Marino, Slovenia, United Republic of Tanzania, United Kingdom, Uruguay.

Convention No. 149: Nursing Personnel, 1977GENERAL OBSERVATION

The Committee refers to its general observation of 1990, in which it emphasized the need to take measures to adapt the legislation on health and safety at work to the particular risk of accidental exposure to the human immunodeficiency virus (HIV), in accordance with Article 7 of the Convention. It also requested governments to indicate the manner in which consultation on such measures with nursing personnel was organized, in accordance with Article 5, paragraph 2, of the Convention.

The Committee notes with interest the information supplied by a number of governments. It considers that it is not yet in a position, in view of the fact that this information covers only a limited number of States, to comment on this matter.

The Committee therefore once again requests governments to indicate the measures taken or contemplated, in consultation with the employers' and workers' organizations concerned, to take into account the particular risk of accidental exposure to HIV among nursing personnel. It also requests governments to indicate the measures taken or contemplated with respect to nursing personnel who are infected or considered to be infected by HIV (for example, conditions of work, confidentiality of test results, recognition that the cause of infection was occupational, etc.).

France (ratification: 1984)

The Committee notes the information supplied by the Government in its report and the comments made by the French Confederation of Christian Workers (CFTC), the General Confederation of Labour "Force-Ouvrière" (CGT-FO) and the French Democratic Confederation of Labour - Health and Social Federation (CFDT).

1. The Committee notes from the Government's report that by virtue of Circular No. 8 of 1 February 1993 of the Hospital Directorate of the Ministry of Health, nursing personnel may be made available to participate in short-term humanitarian activities, with guarantees for the maintenance of their career and the payment of their remuneration by the hospital which employs them for periods not exceeding 15 days. The Committee notes that in its comments the CFDT states that the above Circular does not have the force of regulations and is not therefore enforceable in respect of the directors of hospitals and that its scope is limited to public hospitals, thereby excluding a number of services in which nursing personnel are employed, as well as private establishments. Furthermore, the CGT-FO states that the Ministry of Health refuses to take into account time spent performing humanitarian activities when calculating seniority.

The Committee requests the Government to supply a copy of Circular No. 8 of 1 February 1993 of the Hospital Directorate and to indicate the measures which are envisaged under Article 1, paragraph 3, of the Convention.

2. The Committee also notes the information supplied by the Government concerning the working hours of nursing personnel in the public sector (39 hours a week, reduced to 35 hours in the event of night work). In its comments, the CGT-FO states that, for lack of funds, the 35-hour week in the case of night work is only applied in two regional university hospital centres (CHRU) out of the 29 which exist.

The Committee requests the Government to indicate the measures which have been taken or are envisaged to ensure the application of established working hours to all hospital centres.

3. With regard to the consultation procedures in hospitals provided for by virtue of Hospital Act No. 91.748, the Committee notes the comment made by the CGT-FO that the composition of these bodies takes no account of trade union representation as it may be evaluated from elections to joint committees.

The Committee requests the Government to supply information on the composition of the committees established in hospital establishments under the Hospital Act No. 91.748.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Portugal (ratification: 1985)

The Committee takes note of the comprehensive Government report, and of the comments of the General Confederation of Portuguese Workers (CGTP) regarding the application of certain provisions of the Convention. The Committee asks the Government to refer to its direct request in which these points are treated in detail.

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In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Belgium, Congo, Ecuador, Finland, France, Ghana, Guinea, Guyana, Iraq, Italy, Kenya, Malawi, Malaysia, Philippines, Poland, Portugal, Venezuela, Zambia.

Convention No. 150: Labour Administration, 1978

Venezuela (ratification: 1983)

The Committee notes the information supplied in the Government's report, particularly concerning the points raised by the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS).

Article 3 of the Convention. The Committee notes that there are no particular activities in the field of national labour policy that are regarded as matters which are regulated by having recourse to direct negotiations between employers' and workers' organizations.

Articles 4 and 5. The Committee notes the Government's information on the operation of the system of labour administration, and the consultation, cooperation and negotiation between the public authorities and the most representative organizations of employers and workers, particularly in the context of the Office for Cooperation between Workers and Employers which comes under the Ministry of Labour. It would be grateful if the Government would indicate the subjects of the consultations, negotiations and cooperation organized by the above Office.

Articles 6 and 10. The Committee notes the extensive information on the application of these provisions of the Convention.

Point IV of the report form. The Committee hopes that the Government will provide any general information which may be useful on how the Convention is applied indicating, in particular, any practical difficulties encountered in applying it and which were also raised in the observations made by FEDECAMARAS.

* * *

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

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

Convention No. 151: Labour Relations (Public Service), 1978

Portugal (ratification: 1981)

The Committee takes note of the Government's report and its reply to the comments on the application of Article 7 of the Convention submitted by the National Federation of Public Service Unions (FNSFP) in a communication dated 9 December 1992.

The FNSFP indicates that the Government acted in breach of Article 7 of the Convention by adopting Legislative Decree No. 219/92 of 15 October respecting careers of Portuguese public administration employees in scientific research, without having first negotiated its contents with the FNSFP. It explains that Legislative Decree No. 68/88 of 3 March, which contained the same provisions as Legislative Decree No. 219/92, was declared unconstitutional by a decision of the Constitutional Court on 20 May 1992 on the grounds that unions had not taken part in preparing it. Following that decision, the Government sent the FNSFP a new draft for comment. The Secretary of State for Science and Technology decided that the FNSFP's proposals, although pertinent, would be not taken into account because only the purely technical aspects of the draft would be amended.

The Government explains that, following the decision of the Constitutional Court, the various public service unions concerned were asked to comment on a new draft Decree and that meetings were held with these unions, including the FNSFP. The Secretary of State noted the FNSFP's comments but did not take them into account. According to the Government, a distinction must be made between listening to a

conflicting opinion in good faith and with an open mind and accepting the opinion. Under section 9 of Legislative Decree No. 45-A/84 on the right to collective bargaining of workers in the public administration, the latter are entitled, through their unions, to take part in drawing up legislation concerning general or specific conditions of service in the public service. According to the same section, such participation takes the form of consultations.

The Committee has already noted that the provisions of section 9 of Legislative Decree No. 45-A/84, which entitles workers in the public administration to participate in drafting legislation issuing general or specific conditions of service in the public service, are in conformity with the requirements of Article 7 of the Convention. The Committee observes that Legislative Decree No. 219/92 of 15 October 1992, regulating careers in scientific research in the public service as a whole, establishes specific conditions of service for public servants in scientific research. Since the public service unions concerned did take part in preparing it, in accordance with section 9 of Legislative Decree No. 45-A/84, the Committee considers that there has been no breach of Article 7 of the Convention.

Spain (ratification: 1984)

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

With reference to its previous comments concerning the right of civilian personnel in the armed forces to collectively negotiate their terms and conditions of employment, the Committee requests the Government to supply information on the manner in which the above collective bargaining takes place with reference to civilian personnel in the armed forces who are engaged under private contracts of employment.

[The Government is asked to provide a report for the period ending 30 June 1994.]

United Kingdom (ratification: 1980)

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

In its previous observation, the Committee had stated that, according to the Trades Union Congress (TUC), the independent and impartial machinery which had existed since 1925 for the settlement of disputes in the civil service would soon be abolished, since the Government had announced its unilateral decision to terminate the Civil Service Arbitration Agreement as of 31 March 1992, after which there would be no form of arbitration available for some 530,000 non-industrial civil servants.

The Committee notes that in reply to the TUC's comments, the Government refers the Committee to the observations it made to the Committee on Freedom of Association in respect of Case No. 1619 [284th Report of the Committee, approved by the Governing Body at its 254th Session (November 1992)].

In these circumstances, the Committee - like the Committee on Freedom of Association - regrets that the Government decided unilaterally to put an end to the Civil Service Arbitration Agreement. It notes however from the information supplied to the Committee on Freedom of Association that the parties agreed on new procedures. The Committee trusts that these new arrangements will provide a suitable framework for the resolution of disputes.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Finland, Guinea, Guyana, Netherlands, Uruguay.

Information supplied by Cyprus, Zambia in answer to a direct request has been noted by the Committee.

Convention No. 152: Occupational Safety and Health (Dock Work), 1979

Brazil (ratification: 1990)

In its previous observation the Committee noted the comments made in January 1993 by the Crane, Fork-lift and Other Maritime and River Ports and Terminals Cargo-handling Machinery and Equipment Operators Union of the State of Sao Paulo on issues concerning the application of the Convention.

In its comments, the above organization alleged that the poor state of repair and operation of the lifting machinery, which is the working equipment of this category of workers who are employed in the port of Santos by the Companhia Docas del Estado de Sao Paulo, constitutes a serious risk not only for the workers but for plant and ships. The above organization states that it is concerned at so serious a situation and has therefore alerted the competent port authorities on several occasions but that the defective machinery has not been replaced. Because of the state of the machinery, one worker died as a result of an accident on 4 January 1993. The organization therefore communicated to the Regional Labour Delegation its decision not to operate the 16 machines, made in 1927, before they were overhauled. In the legal action brought by the public prosecutor of the State of Sao Paulo against the company in which the deceased worker was employed, it was found that the workers of the company were exposed to serious and imminent risk to their lives, health and physical integrity, despite the fact that the administrative authorities had repeatedly given instructions for the numerous deficiencies to be remedied, particularly as concerns the outdated machinery, and reference was made to the expert opinion issued by the Maritime Labour Delegation of the State of Sao Paulo on 17 October 1986, which found that a series of machines was in a bad state of disrepair and that if they were used in such a state they were liable to cause physical harm to the workers, and that the company had taken no steps to take the oldest and most unsafe machinery out of

operation. The organization also indicates that an additional port tax was instituted to finance the renewal of the machinery but is not being used for that purpose.

The Committee notes that the Government stated in its reply of 14 April 1993 to the above allegations that the Ministry of Labour was endeavouring to have a law on occupational safety and health in ports adopted. In a communication of 27 September 1993 the Government indicated that the obsolete machinery had been dismantled.

The Committee notes that in a communication of 5 November 1993, a copy of which was sent to the Government on 14 December 1993, the Trade Union of Dockers and the Ore-Handling Stevedores of the State of Espirito Santo alleged that in recent years there have been many accidents in the ports sector and they have caused the death and mutilation of numerous workers, that the situation remains unchanged, and that the Regional Labour Delegations state that they do not have specific legal machinery for supervising dock work. They therefore consider that a law on safety and health in dock work should be adopted and that it should be determined which authority is responsible for inspection in this sector. The Committee notes the Bill on safety and health in dock work, prepared by FUNDACENTRO, which the above Union enclosed with its comments.

Article 4 of the Convention provides that national laws or regulations shall prescribe that technical measures complying with Part III of the Convention be taken as regards dock work with a view to providing and maintaining workplaces, equipment and methods of work that are safe and without risk of injury to health, and Articles 21 to 25 (Part III of the Convention) prescribe periodical examinations, the issuing of certificates and the keeping of records in respect of lifting appliances and items of loose gear.

The comments made by the two organizations referred to above indicate that there are serious shortcomings in both law and practice as regards the protection prescribed by the Convention for dockworkers. Both organizations are of the opinion that specific measures must be adopted to protect the health and safety of workers in the ports sector and that the lack of such measures has meant that there is no effective inspection and has led to serious and even fatal accidents among workers in the sector. The Committee hopes that the Government will take the necessary measures promptly to adopt provisions that give effect to the Convention and set up an effective system of ports' inspection to enforce them, in order to protect the health and safety of dockworkers. In this connection, the Committee asks the Government to report on developments in the adoption of the Bill on occupational safety and health in dock work prepared by FUNDACENTRO.

Spain (ratification: 1982)

1. Article 38, paragraph 2, of the Convention. The Committee notes the comments made by the Trade Union Confederation of Workers' Commissions (CC.OO.), dated 21 October 1993. In its comments, the Confederation states that there is no provision in national legislation prohibiting the employment of persons under 18 years of

age as operators of cargo handling appliances in ports, as set out in Article 38, paragraph 2, of the Convention. The Confederation refers in this respect to Royal Legislative Decree No. 2/1986 respecting the employment of dockers, and Royal Decree No. 145/1989 to approve the national rules for the handling and storage of dangerous cargoes in ports. The Committee hopes that the Government will supply information in reply to the comments made by the CC.OO., with an indication of the measures which have been taken or are envisaged to give effect to the above provision of the Convention.

2. With regard to a number of other provisions of the Convention, the Committee refers to the comments which it made in the form of a request addressed directly to the Government in 1993.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Congo, Cyprus, Ecuador, France, Iraq.

Convention No. 153: Hours of Work and Rest Periods (Road Transport), 1979

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

Convention No. 154: Collective Bargaining, 1981

Requests regarding certain points are being addressed directly to the following States: Gabon, Norway, Uganda.

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

Convention No. 155: Occupational Safety and Health, 1981

Portugal (ratification: 1985)

The Committee notes with satisfaction the information provided in the Government's latest report and, in particular, the adoption of Legislative Decree No. 441/91 of 14 November 1991 establishing general principles for the promotion of occupational safety and health and Legislative Decree No. 219/93 of 16 June 1993 which creates the Institute for the Inspection of Working Conditions (IDICT). The Committee notes that this legislation ensures an improved application of the Convention by establishing a coherent national occupational safety and health policy, in particular, with respect to Articles 9, 10, 11(d), 15, 16 and 17 of the Convention.

The Committee is raising other points in a request addressed directly to the Government.

Spain (ratification: 1985)

With reference to its previous comments, the Committee notes the information provided in the Government's report and the comments made by the General Workers' Union (UGT) and the Trade Union Confederation of Workers' Commissions (CC.OO.) in communications dated 19 September and 4 October 1993 respectively and transmitted to the Office by the Government.

In previous observations, the Committee had noted the Government's indication in its report for the period ending 30 June 1987 that the Ministry of Labour was preparing a legal text on safety and health at work to deal with, in particular, the coordination between the authorities and bodies with responsibility in this area, and the rights and duties of employers and workers. The Committee recalled that Article 4 of the Convention provided that a coherent national policy on occupational safety, occupational health and the working environment be formulated, implemented and reviewed in consultation with the most representative organizations of employers and workers. It expressed the hope that a coherent national policy on occupational safety, occupational health and the working environment would be formulated in the near future and that it would ensure coordination between the relevant authorities and bodies (Article 15), the lack of which had been commented upon by the CC.OO. in 1987.

In its latest report, the Government has indicated that regulatory standards concerning working conditions are constantly being adopted and brought up to date and that the national policy concerning occupational safety and health exists in the form of such standards which set forth the rights and duties of workers and employers at the level of the enterprise and at the national level. The Government adds, however, that the process of legislative reform is currently being negotiated with the social partners but there has, as yet, been no complete agreement in this regard. The UGT has stated in its comments that the existence of a preventive policy on occupational safety and health depends upon the approval of the draft Act on prevention of occupational risks which, they assert, has already received the consensus of the social partners. The CC.OO. has noted that the draft Act, which they state has already been discussed with the social partners, has not yet been sent to Parliament. The Committee once again expresses the hope that a coherent national policy on occupational safety and health will be adopted in the near future.

Venezuela (ratification: 1984)

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

The Committee noted the Government's communication dated 12 June 1992 concerning the creation of the National Council and the National Institute on Prevention and Health and Safety at Work by Decree No. 2.208 of 23 April 1992; it however noted with regret that no report has been received from the Government in response to the other issues raised by the Committee in its previous comments. The Committee, therefore, trusts that the Government will supply a detailed report in the very near future on the following points:

1. Article 4, paragraph 1, of the Convention. The Committee notes that the newly created National Council on Prevention and Health and Safety at Work is, by virtue of section 8 of the Basic Act of 1986 on prevention, working conditions and the working environment, authorized to draw up national policy with respect to working conditions and working environment as concerns the prevention of workers' health, safety and welfare and is responsible for overseeing the observance of all the standards contained in the Act and the regulations issued thereunder. It further notes the Government's indication in its letter of 12 June 1992 that progress is being made on the consolidated social security draft with a view towards ensuring the implementation of the provisions of the Basic Act. The Committee hopes that the Government will indicate the progress made in the revision of the consolidation of social security laws and the measures taken or envisaged in the draft to improve the application of the Basic Act.

2. With reference to its previous comments, the Committee hopes that the Government will indicate the manner in which the relationships between, on the one hand, the material elements of work and the persons who carry out or supervise the work and on the other, the adaptation of machinery, equipment, working time, organization of work and work processes to the physical and mental capacities of the workers (Article 5(b)) are taken into account in the national policy and the measures taken to provide for communication and cooperation at all levels (Article 5(d)). The Government is also requested to indicate the measures taken or envisaged to ensure that the functions elaborated in Article 11 of the Convention are carried out.

3. Article 8. In previous comments, the Committee noted that no new regulations had been issued to give effect to the national occupational safety and health policy called for under Article 4 of the Convention. It welcomes the creation of the National Council on Prevention and Health and Safety at Work which appears to have the authority for elaborating the regulations necessary to the implementation of the national occupational safety and health policy. The Government is requested to indicate any laws or regulations adopted or under consideration to give effect to the national occupational safety and health policy.

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

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Cyprus, Ethiopia, Finland, Iceland, Mexico, Portugal, Spain, Uruguay, Venezuela.

Convention No. 156: Workers with Family Responsibilities, 1981

Finland (ratification: 1983)

The Committee has noted the information provided by the Government in its report.

1. The Committee's previous comments reflected the concern of the trade unions over the inadequacy of municipal day care which, in their view, forced parents to resort to the more expensive and less reliable alternative of private arrangements, thus creating inequality for parents. In its comments on this matter, the Government notes that the new Children's Home-Care Allowance Act, which entered into force in 1985, ensured the parents of children under 3 years, a choice of either municipal day care or a home-care allowance. In addition to enabling a child to be cared for at home by a parent, the allowance may also be used to cover the cost of private child care. The Government states that all children under 3 years were extended the actual right to municipal day care in 1990, either in day-care centres or in the homes of carers employed by the municipal authorities. According to information provided by the Government, virtually all local authorities had managed to arrange the care of children under 3 years by 1990. By that time, 95 per cent of the demand for the full-time care of all children below the school age and 98 per cent of that for part-time care had been met. Moreover, the number of families receiving the home-care allowance had increased to 58,000 in 1990, as compared with 15,800 in 1985.

The Government indicates, in its report, that legislation passed in 1991 was to have further extended the right to day care by granting it to all children under 4 years by 1993 and to all children under school age by 1995. The Government also intended to extend the home-care allowance scheme accordingly so that by August 1995, all children below the school age of 7 years would have been covered by a social day-care or allowance system. However, in 1992, the Government postponed the entry into force of this legislation as the economic situation had worsened considerably. The legislative right to day-care and the extension of the home-care allowance to children under 4 years will now take effect in August 1995.

2. The present report also contains a comment made by the Central Organization of Finnish Trade Unions and the Confederation of Unions for Academic Professionals in Finland stating that the economic recession has had an adverse effect on the distribution of family support between men and women. The Government has also referred to the

effect of the deep economic recession on the development of social security policy and benefits to families with children. This has resulted in a reduction of the level of the maternity and parental allowance, from 70 per cent to 66 per cent, and a shortening of the period for the payment of the maternity or parental allowance from 275 to 263 days. On the other hand, the Government has indicated that the 6-12 month paternity leave entitlement will no longer shorten the length of the parental leave. In addition, 1990 amendments to the Employment Contracts Act of 1970 have extended an employee's right to part-time leave for the care of a child at home until the end of the year in which the child starts school.

3. The Committee appreciates the full and candid comments of the Government concerning the measures being taken to maintain the promotion of the Convention in difficult economic circumstances. The Committee hopes that the Government will be able to continue its attempts to foster the aims of the Convention and that its future reports will reflect these efforts.

4. The Committee is addressing a direct request to the Government on other points.

France (ratification: 1989)

1. The Committee notes the comments transmitted by the French Confederation of Christian Workers (CFTC) which indicate that consideration is being given to making the receipt of the family allowance (allowance paid for children) a matter of free choice. According to the CFTC, this allowance of three-quarters of the minimum wage, which is granted as from the second child to one of the working parents, should be offered as of choice so that its grant does not amount to a tax penalty. One of the conditions of such a development should, states the CFTC, be to guarantee both that the spouse who has chosen to receive the allowance not be prevented from also pursuing a career in the normal way and that he/she continue to receive social protection, especially as concerns retirement.

2. The Committee also notes the comments of the French Democratic Confederation of Labour (CFDT) which state that no measures actually exist in French law to proscribe discrimination in employment for workers with family responsibilities so as to enable them to harmonize their family and professional lives. Even though an employment contract may be suspended for three years after the birth or adoption of a child, no such possibility exists in other circumstances as when, for example, an adolescent has a serious problem with drugs or has attempted suicide or when an aged parent is near death. There is no entitlement for workers to obtain leave to care for a sick child, nor is there the possibility for them to interrupt their employment or reduce their working hours to provide care and support for family members.

3. The CFDT refers to Article 8 of the Convention (which provides that family responsibilities shall not, as such, constitute a valid reason for termination of employment), and notes that if workers with family responsibilities need time to care for an ill child, an aged parent or an adolescent in trouble, they must formally resign

from their jobs. If it is true, states the CFDT, that a significant effort has been made by France - compared to that made by other countries - to develop ways of caring for young children, then these efforts are far from meeting the actual needs in respect of, for example, sick children, care for children outside of school-hours and activities for adolescents.

4. The Committee notes the concerns expressed by the CFDT and the CFDT and invites the Government's comments on the matters raised in its next report.

5. The Committee is also addressing a direct request to the Government on certain points.

Norway (ratification: 1982)

Referring to its previous comments concerning any measures taken with respect to workers with responsibilities in relation to members of their families other than dependent children, the Committee notes with interest the recent amendments made to the 1966 National Insurance Act. Under these, an insured person who is home nursing a person with whom he or she has a close relationship is entitled, during the terminal phase of an illness or injury, to daily cash benefits (under the rules concerning such payments for an insured person's illness) for a period of up to 20 days. In addition, a person who has been caring for elderly, sick or handicapped persons who are not in an institution, may be credited with pension points for each calendar year in which he/she has provided such care, provided that the care has amounted to at least six months of the year in question and has been so extensive that the person has essentially been prevented from supporting him or herself. (This latter benefit also applies to persons caring for children under 7 years of age.)

The Committee is raising certain other points in a request addressed directly to the Government.

Venezuela (ratification: 1984)

The Committee notes with interest the entry into force on 1 May 1992 of a new Organic Labour Act, and the information supplied by the Government in relation to its previous comments.

1. The Committee refers to paragraph 90(c)(iii) of the report of the Committee set up by the Governing Body to examine the representation made by the International Organization of Employers (IOE) and the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS), under article 24 of the Constitution, alleging non-observance by Venezuela of certain international labour Conventions. In the report the Committee of Experts is asked to examine section 387 (10 weeks maternity leave for adoptive mothers) of the new Organic Labour Act in the light of the present Convention.

In this connection, the Committee refers to its 1993 General Survey on Workers with Family Responsibilities, in which it refers to the objectives of the instruments as being 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. The General Survey explains that the inclusion in Article 1, paragraphs 1 and 2, of the Convention of the phrase "where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity" introduces a condition to prevent making workers with family responsibilities a privileged group in relation to other workers, thereby giving rise to discrimination against other members of the workforce.

With regard to the question of whether the granting of leave only to adoptive mothers and not to adoptive fathers is contrary to the Convention, the Committee considers that discrimination against male workers cannot be inferred from section 387 of the Organic Labour Act on the grounds that it does not grant maternity leave for adoptive fathers. The Committee is of this opinion because the Act itself refers to the leave as "maternity leave" and because this provision should be considered in the context of the Act as a whole, and the Act makes no provision for male workers to have leave for the birth of a child in the family. In this connection the Committee refers to paragraph 124 of its General Survey. Furthermore, Article 3, paragraph 2 of Convention No. 156 defines "discrimination" in exactly the same terms as Article 5 of Convention No. 111 which allows special measures of protection or assistance provided for in other Conventions adopted by the International Labour Conference. The maternity leave for adoptive mothers in the new Venezuelan Labour Act comes under the measures of protection provided for in Convention No. 103 which Venezuela has also ratified.

2. The Committee refers to other aspects of the Convention in a direct request addressed to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Australia, Ethiopia, Finland, France, Greece, Netherlands, Niger, Norway, Peru, Portugal, San Marino, Spain, Uruguay and Venezuela.

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

Convention No. 158: Termination of Employment, 1982

Spain (ratification: 1985)

The Committee notes the information provided by the Government in reply to its earlier comments, including the information on judicial decisions supplied under Article 11 of the Convention. It also notes the new observations made in September 1993 by the Trade Union Federation of Workers' Commissions (CC.OO.) and in October 1993 by the General Union of Workers (UGT), annexed to the Government's report.

Article 2, paragraphs 2 and 3. The UGT expresses once again its concern about the vast increase in the number of temporary contracts of employment in the country and about the lack of guarantees of stability in employment for temporary workers. The Union considers it necessary to eliminate fraud in temporary labour contracting and to modify the existing rules which, in their view, make possible unjustified recourse to contracts of employment for a specified period of time. The Government indicates that a global estimate of the impact of Law No. 2 of 1992 has not been made but points out that in the course of preparatory work for the proposed Social Pact there was a will to modify the rules governing fixed-term contracts in the framework of the flexibility and employment policies. The Committee, which refers also to those policies in its comments on Convention No. 122, hopes that adequate safeguards will be provided in the near future against recourse to such contracts of employment, the aim of which is to avoid the protection resulting from the Convention, as required by this Article. It would suggest reference in this connection to Paragraph 3 of the Termination of Employment Recommendation, 1982 (No. 166). The Committee asks the Government to keep the ILO informed of the developments in this sphere. Please continue to provide information on the judicial decisions concerning the protection of workers who hold temporary contracts of employment, as well as on the intervention of the labour inspectors in matters involving fraud and abuses in fixed-term contracting.

Article 7. With reference to its earlier comments concerning the procedure prior to or at the time of termination, the Committee notes that both the CC.OO. and the UGT confirm their views on the points previously raised under this Article. The CC.OO. states that the safeguard provided for in this Article is available in the national legislation only for a member of a works committee or a staff representative (section 68(a) of the Worker's Charter of 1980). The UGT considers it necessary to extend the scope of this provision of the legislation to cover all the workers without any exception. Both organizations express the opinion that the provision of section 3 of Act No. 2/1991 which provides that the worker may request the attendance of an official representative of the workers at the time of signing the receipt for the release presented to him by the employer when serving notice of the termination of a contract of employment, does not meet the requirements of this Article. According to the CC.OO., the purpose of the above-mentioned Act No. 2/1991 is to prevent abuses in temporary labour contracting, and section 3 of the Act does not refer to cases of termination of employment for reasons related to worker's conduct or performance.

The Government reiterates its previous statement concerning the moment when the employment is considered to be terminated according to the national legislation and practice, as well as the procedure available to a worker to defend himself against the allegations made, with reference to sections 54 to 56 and 59(3) of the Worker's Charter and to sections 103 to 113 of the Labour Procedure Act. In regard to the provision of section 3 of Act No. 2/1991, the Government states that this section is applicable in all cases of termination of any type of individual contract of employment, including cases of termination for reasons related to the worker's conduct or performance.

While noting this information, the Committee would like to draw the Government's attention once again to the provision of this Article of the Convention, according to which "the employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an opportunity to defend himself against the allegations made". The Committee observes that the above-mentioned provisions of the national legislation are not in conformity with the Convention on this point, inasmuch as the safeguard provided by this Article must be available to all workers irrespective in particular of the referral of the matter to the competent court and of the procedure of signing the receipt for the release presented by the employer when serving notice of the termination of a contract of employment. The Committee hopes that appropriate measures will be taken by the Government in order to give full effect to this Article of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Gabon, Malawi, Uganda, Venezuela, Zaire.

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

Convention No. 159: Vocational Rehabilitation and Employment (Disabled Persons), 1983

Requests regarding certain points are being addressed directly to the following States: Argentina, Brazil, Burkina Faso, China, Denmark, France, Germany, Ireland, Malawi, Malta, Peru, Spain, Tunisia, Uganda, Uruguay, Zambia.

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

Convention No. 160: Labour Statistics, 1985

Requests regarding certain points are being addressed directly to the following States: Belarus, Brazil, Colombia, Czech Republic, El Salvador, Italy, Netherlands, San Marino, Slovakia, United States.

Convention No. 161: Occupational Health Services, 1985

Hungary (ratification: 1988)

The Committee notes the information provided in the Government's report, as well as the position of the National Organization of

Hungarian Trade Unions with respect to the application of the Convention included in the Government's report.

Articles 2 and 6 of the Convention. (a) In its previous comments, the Committee noted that, while apparently much legislation existed regulating occupational health services, there was no statutory obligation for the provision of such services. In its report for the period ending 30 June 1992, the Government indicated that a new Act on Labour Safety was being prepared, in consultation with the representative organizations of employers and workers, and that it was proposed that this Act include the obligation of employers to ensure occupational health services. The Committee notes the comments made by the National Organization of Hungarian Trade Unions that there is a lack, in the country, of national policy with respect to occupational health services, as well as a lack of such services. The National Organization of Hungarian Trade Unions adds that, if adopted, the draft Act on Occupational Safety, along with the proposed ministerial decrees, might provide the opportunity to implement the Convention.

The Committee notes from the Government's latest report that the Bill on Occupational Safety includes a provision requiring employers to provide occupational health services (now called "Employment Health Services") to all workers. It further notes the indication in the Government's report that the Bill was discussed by the tripartite Council for the Reconciliation of Interests and has been submitted to Parliament. Debate on the Bill was scheduled for autumn 1993. The Committee hopes that the Bill will be adopted in the near future and that it will provide for the establishment of occupational health services with the functions enumerated in Article 5 and will ensure the application of the Convention with respect to the organization and conditions of operation of such services and, in particular, with respect to Articles 8, 14 and 15. The Government is requested to provide a copy of the text of the Occupational Safety Bill as soon as it has been adopted.

Article 3 and point VI of the report form. The Committee notes the indication in the Government's latest report that occupational health services have been available for 40 per cent of the active wage-earners, which represents a decrease of 10 per cent from statistics of previous years. The Government is requested to continue to provide information on the progress made in developing occupational health services for all workers and, in accordance with point VI of the report form, to continue to provide statistics available on the number of workers covered by occupational health services.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Finland, Guatemala, Mexico, Uruguay.

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

Convention No. 162: Asbestos, 1986Spain (ratification: 1990)

The Committee takes note of the information provided in the Government's first and second reports. It also notes the comments made by the General Union of Workers (UGT) transmitted by the Government with its reports.

The General Union of Workers states that, while legislation for the application of the Convention has been adopted, information from the National Occupational Safety and Health Institute demonstrates that its practical application is not ensured. According to the 1991-92 report of the Institute, over 66 per cent of the 151 work centres registered do not monitor the workplace nor evaluate the workers' health. Of those work centres which do monitor the working environment, 3.2 per cent of the 1,152 workers concerned are exposed to concentration limits above the legal maximum. The UGT notes that many enterprises have been found to be in contravention of the legislation in the following areas: lack of medical examinations; lack of monitoring of the working environment; high level of workplace exposure concentrations; absence or inadequacy of hygienic measures; lack of sanitary installations; non-registration with the Register of Enterprises with Asbestos Risk (RERA); lack of isolation, extraction, localization and ventilation measures; carrying out of prohibited work. The UGT considers that such non-compliance is due to the fact that the sanctions imposed are purely financial and are so low as to be totally ineffective in dissuading employers from continually ignoring their responsibilities under the law. Finally, the UGT indicates that the absence of measures to ensure workers' participation in the monitoring of the preventive measures adopted seriously hinders the level of practical application of the relevant regulations.

In reply to the UGT's comments, the Government has indicated that a specific plan of action with respect to work involving exposure to asbestos, consisting of a Central Directive Circular 102/89 accompanied by a questionnaire, has been undertaken by the Labour Inspectorate. In October and November of 1990, 224 enterprises were inspected, 43 contraventions were noted and 110 summons given. During the first six months of 1992, 145 inspections were made, 29 contraventions noted and 46 summons given. The Government adds that the statistics presented in the report of the National Occupational Safety and Health Institute cited by the UGT are misleading since they gather data from the RERA, which receives information from all the provinces and autonomous communities, and the Book-Register of Medical and Workplace Evaluations, which may not receive information from all of the autonomous communities. The Government concludes that the number of contraventions reported does not indicate an insufficiency of the legal system in force or of the action undertaken by the government authorities, but rather demonstrates the vigour and efficiency of this system.

The Committee notes that the tripartite Monitoring Commission for the Application of the Asbestos Regulations created by Resolution of 11 February 1985 has among its functions to collaborate with the

competent authority, upon its request, concerning the practical application of the asbestos regulations in all of the enterprises concerned and to propose amendments to the regulatory texts. The Government is requested to continue to supply information on the measures taken to ensure that enforcement of the relevant laws and regulations is secured by an adequate and appropriate system of inspection and by appropriate penalties, in accordance with Article 5, paragraphs 1 and 2, of the Convention. In this regard, the Government is requested to supply, with its next report, extracts from any reports or recommendations made by the Monitoring Commission for the Application of the Asbestos Regulations, relevant extracts from reports of the Labour Inspectorate, the number and nature of any contraventions, the nature and/or amount of the penalties imposed, as well as the number of occupational diseases reported as being caused by asbestos, in accordance with point IV of the report form.

Finally, the Government is requested to indicate the measures taken to ensure that workers or their representatives have the right to request the monitoring of the working environment and to appeal to the competent authority concerning the results of the monitoring, in accordance with Article 20, paragraph 4.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Brazil, Cameroon, Canada, Ecuador, Finland, Guatemala, Slovenia, Spain, Uganda.

Convention No. 163: Seafarers' Welfare, 1987

Requests regarding certain points are being addressed directly to the following States: Hungary and Mexico.

Convention No. 164: Health Protection and Medical Care (Seafarers), 1987

Requests regarding certain points are being addressed directly to the following States: Hungary, Mexico, Spain and Sweden.

Convention No. 165: Social Security (Seafarers) (Revised), 1987

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

Convention No. 166: Repatriation of Seafarers (Revised), 1987

Requests regarding certain points are being addressed directly to the following States: Mexico, Spain.

Convention No. 168: Employment Promotion and Protection against Unemployment, 1988

Requests regarding certain points are being addressed directly to the following States: Finland, Sweden, Switzerland.

Convention No. 169: Indigenous and Tribal Peoples, 1989

Colombia (ratification: 1991)

The Committee notes with interest the Government's detailed first report on the application of this Convention. It is pleased to note here, as it had under Convention No. 107 (the ratification of which was replaced by the ratification of the present Convention), the Government's efforts over recent years to recognize the rights of the indigenous peoples of the country. It takes particular note of the extension of land rights to these peoples, in a systematic and concentrated fashion.

The Committee also notes, however, that the Government's last report under Convention No. 107 and its first report under the present Convention, have spoken of a certain movement in the country away from a recognition of special rights for indigenous peoples, or from programmes specially adapted to their needs, e.g. in the areas of credit facilities and of recognition of customary law. The Committee hopes that the Government will keep it closely informed of developments in these areas in its future reports.

* * *

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

**Appendix I. Receipt of Detailed Reports on Ratified Conventions
as at 25 February 1994**

(Article 22 of the Constitution)

<i>State Member</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
Grand Total	1233		673		1906
AFGHANISTAN	0		9	41 45 95 100 111 137 139 140 141	9
ALBANIA	0		14	6 10 11 16 29 52 58 59 77 78 87 98 100 112	14
ALGERIA	0		13	6 17 29 42 62 81 88 89 92 98 100 108 127	13
ANGOLA	19	1 6 7 12 17 18 26 29 45 68 81 88 89 91 92 98 100 108 111	0		19
ANTIGUA AND BARBUDA	10	11 17 19 29 81 87 98 105 111 138	2	12 108	12
ARGENTINA	11	2 12 17 29 42 81 88 98 100 129 151	8	34 41 45 68 79 90 156 159	19
AUSTRALIA	10	12 29 42 81 88 98 100 156 159 160	0		10
AUSTRIA	12	6 12 17 29 42 45 81 88 89 98 100 160	0		12
AZERBAIJAN	11	29 45 79 90 98 100 108 147 148 149 159	0		11
BAHAMAS	0		19	5 7 10 11 12 17 19 26 29 42 45 81 88 94 97 98 105 117 144	19
BAHRAIN	0		3	29 81 89	3
BANGLADESH	8	18 29 45 81 89 90 98 149	0		8
BARBADOS	0		16	7 11 12 17 29 42 63 81 90 97 98 100 105 108 118 122	16

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
BELARUS	7	29 45 79 90 98 100 149	0		7
BELGIUM	14	6 12 29 45 81 88 98 100 121 138 147 149 151 154	2	82 107	16
BELIZE	0		14	11 12 26 29 42 58 81 87 88 89 97 98 99 108	14
BENIN	7	6 18 29 41 98 100 143	0		7
BOLIVIA	17	5 45 81 88 89 90 98 100 102 105 111 121 122 129 160 162 169	0		17
BOTSWANA	1	19	0		1
BRAZIL	23	6 12 29 42 45 81 88 89 92 94 98 100 107 108 111 115 127 147 148 152 159 161 162	0		23
BULGARIA	12	6 12 17 29 42 79 81 87 98 100 108 127	1	45	13
BURKINA FASO	0		10	6 17 18 29 41 81 98 100 129 159	10
BURUNDI	0		7	12 17 29 42 81 89 90	7
CAMBODIA	5	4 6 13 29 122	0		5
CAMEROON	3	9 87 162	18	3 11 29 45 81 89 90 97 98 100 106 108 111 122 131 143 146 158	21
CANADA	5	87 88 100 108 162	0		5
CAPE VERDE	5	17 29 81 98 100	0		5
CENTRAL AFRICAN REPUBLIC	0		25	2 3 5 6 10 11 13 17 18 19 26 29 33 41 81 88 95 98 99 100 105 111 117 118 119	25
CHAD	0		7	6 29 41 81 98 100 111	7

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
CHILE	9	1 2 6 20 29 30 45 100 111	4	12 17 18 127	13
CHINA	3	100 144 159	1	45	4
COLOMBIA	15	2 4 6 12 17 18 22 29 81 88 98 100 129 159 169	0		15
COMOROS	0		10	6 12 17 19 29 42 81 89 98 100	10
CONGO	0		5	6 29 89 149 152	5
COSTA RICA	21	8 11 16 29 45 81 88 89 90 92 98 100 102 113 120 127 129 141 147 148 159	0		21
COTE D'IVOIRE	11	6 18 29 41 45 81 96 98 100 129 144	2	19 133	13
CROATIA	3	29 98 121	0		3
CUBA	16	12 17 29 42 45 79 81 88 90 98 100 108 111 148 151 155	0		16
CYPRUS	16	29 45 81 88 89 90 98 102 121 141 151 154 155 158 159 160	2	100 152	18
CZECH REPUBLIC	14	12 17 29 42 45 88 89 90 98 100 148 155 159 161	0		14
DENMARK	16	6 12 29 42 81 88 98 100 108 129 147 148 149 151 152 160	1	159	17
DJIBOUTI	28	1 6 9 11 12 17 18 22 24 26 29 37 38 45 58 81 87 88 89 91 94 98 99 100 106 108 120 126	1	122	29
DOMINICA	0		18	11 12 14 16 19 22 26 29 81 87 94 97 98 100 105 108 111 138	18
DOMINICAN REPUBLIC	9	29 45 79 81 88 89 90 98 100	0		9

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
ECUADOR	15	29 45 81 88 98 100 121 127 144 148 149 152 153 159 162	8	101 110 111 119 120 122 128 131	23
EGYPT	18	2 17 18 29 45 73 81 87 88 89 98 100 147 148 149 150 152 159	0		18
EL SALVADOR	0		3	12 159 160	3
EQUATORIAL GUINEA	0		1	100	1
ESTONIA	0		5	2 6 12 41 45	5
ETHIOPIA	11	2 87 88 96 98 106 111 155 156 158 159	0		11
FIJI	5	12 29 45 98 108	0		5
FINLAND	23	2 9 12 29 45 81 88 98 100 108 121 129 147 148 149 151 154 155 156 159 160 161 162	0		23
FRANCE	25	12 13 17 42 44 53 69 74 90 92 95 100 108 111 120 122 125 126 131 136 141 147 149 156 158	16	27 29 45 81 82 88 94 96 98 127 129 133 137 148 152 159	41
GABON	0		10	6 12 29 41 45 81 98 100 154 158	10
GERMANY	15	12 29 45 53 81 88 98 100 111 121 125 128 129 147 159	1	160	16
GHANA	1	87	22	1 11 26 29 30 45 50 58 64 81 88 89 90 92 98 100 108 119 120 148 149 151	23
GREECE	16	17 29 42 45 81 88 90 98 100 108 135 142 147 149 156 159	0		16
GRENADA	0		9	12 26 29 58 81 98 99 105 108	9

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
GUATEMALA	0		23	10 13 16 29 45 50 59 64 79 81 88 89 90 98 100 104 108 117 124 127 161 162 167	23
GUINEA	0		13	29 45 81 89 90 98 100 118 121 122 148 149 151	13
GUINEA-BISSAU	0		28	1 6 7 12 14 17 18 19 26 27 29 45 68 69 73 74 81 88 89 91 92 98 100 105 106 107 108 111	28
GUYANA	0		24	2 7 11 12 29 42 45 81 87 97 98 100 108 111 115 129 131 136 137 139 141 144 149 151	24
HAITI	0		10	12 17 29 42 45 81 87 90 98 100	10
HONDURAS	0		7	29 42 45 81 98 100 108	7
HUNGARY	13	2 6 12 17 29 42 45 87 98 100 159 161 165	0		13
ICELAND	10	2 29 87 98 100 108 122 139 155 159	0		10
INDIA	6	45 81 88 107 111 141	6	29 42 89 90 100 136	12
INDONESIA	0		4	29 45 98 100	4
IRAN, ISLAMIC REP. OF	3	29 100 108	0		3
IRAQ	17	17 19 29 98 100 108 115 118 119 120 132 146 147 148 149 153 167	7	42 81 88 89 122 144 152	24
IRELAND	9	6 12 29 81 88 100 108 121 159	1	98	10
ISRAEL	6	29 79 81 88 90 98	2	100 118	8
ITALY	14	12 29 32 42 79 81 98 100 108 127 129 147 149 151	5	45 90 118 148 160	19

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
JAMAICA	3	11 87 149	8	8 29 58 81 98 100 122 150	11
JAPAN	8	29 45 81 88 98 100 121 147	0		8
JORDAN	15	29 81 98 100 105 106 111 117 118 119 120 122 123 135 142	0		15
KENYA	11	2 12 17 29 45 81 88 89 98 129 149	0		11
KUWAIT	7	1 29 30 81 87 89 119	0		7
KYRGYZSTAN	11	29 45 79 90 98 100 108 147 148 149 159	0		11
LAO PEOPLE'S DEM. REP.	4	4 6 13 29	0		4
LEBANON	12	14 17 29 45 81 88 89 90 98 100 105 127	0		12
LESOTHO	6	5 11 19 26 29 87	2	45 98	8
LIBERIA	0		17	22 23 29 53 55 58 87 92 98 105 108 111 112 113 114 133 147	17
LIBYAN ARAB JAMAHIRIYA	0		9	29 81 88 89 98 100 118 121 131	9
LITHUANIA	0		2	4 6	2
LUXEMBOURG	8	12 79 81 90 98 100 102 121	15	2 9 29 53 55 56 68 69 73 74 88 92 108 147 166	23
MADAGASCAR	7	6 12 41 81 100 111 129	6	29 117 119 120 122 127	13
MALAWI	6	11 26 97 98 99 111	10	12 45 81 89 100 129 144 149 158 159	16
MALAYSIA	4	29 81 88 98	0		4
Malaysia (Peninsular)	3	12 17 45	0		3
Malaysia (Sarawak)	1	12	0		1
MALI	9	6 17 18 29 41 81 98 100 111	0		9

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
MALTA	29	2 11 12 13 21 26 29 45 62 73 77 78 81 96 98 99 100 108 111 124 127 129 135 136 138 141 148 149 159	3	42 88 117	32
MAURITANIA	10	17 18 29 81 87 89 90 111 118 122	0		10
MAURITIUS	9	2 12 17 19 29 42 81 98 108	0		9
MEXICO	12	12 17 29 42 45 90 96 100 108 155 160 161	0		12
MONGOLIA	0		5	59 98 100 103 123	5
MOROCCO	13	2 12 17 29 41 42 45 81 98 100 106 129 147	0		13
MOZAMBIQUE	0		5	17 18 81 88 100	5
MYANMAR	6	2 6 17 29 42 52	0		6
NEPAL	0		3	100 111 131	3
NETHERLANDS	15	12 17 29 81 88 90 100 113 121 129 147 151 155 156 159	1	45	16
NEW ZEALAND	7	12 17 29 42 81 88 100	0		7
NICARAGUA	15	4 6 9 12 17 18 29 45 88 98 100 111 127 136 139	0		15
NIGER	8	6 18 41 81 98 100 154 158	3	29 119 156	11
NIGERIA	5	29 45 81 88 105	3	98 100 133	8
NORWAY	20	12 29 42 81 88 90 98 100 108 129 147 148 149 151 154 155 156 159 160 167	0		20
PAKISTAN	0		12	1 18 22 29 45 59 81 89 90 96 98 111	12
PANAMA	12	12 29 42 45 73 81 88 89 98 100 108 127	9	8 17 55 64 68 92 114 125 126	21

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
PAPUA NEW GUINEA	0		13	2 7 8 10 12 26 29 42 45 85 98 99 122	13
PARAGUAY	8	29 79 81 89 90 98 100 159	0		8
PERU	18	12 27 29 41 45 67 79 81 88 90 98 100 102 106 151 152 156 159	0		18
PHILIPPINES	9	17 88 89 90 98 100 144 149 159	0		9
POLAND	15	2 12 17 29 42 45 79 90 98 100 127 141 149 151 160	0		15
PORTUGAL	19	6 12 17 18 29 45 81 88 98 100 108 127 129 147 148 149 151 155 156	0		19
QATAR	1	111	1	81	2
ROMANIA	12	6 29 81 88 89 98 100 108 111 127 129 138	0		12
RUSSIAN FEDERATION	17	11 13 29 45 47 79 90 98 100 108 133 134 147 148 149 159 160	0		17
RWANDA	10	12 17 42 81 89 98 100 118 132 135	0		10
SAINT LUCIA	0		24	5 7 8 11 12 14 16 17 19 26 29 50 64 65 87 94 95 97 98 100 101 105 108 111	24
SAN MARINO	6	98 100 148 151 159 161	6	88 119 140 142 150 156	12
SAO TOME AND PRINCIPE	0		6	17 18 81 88 100 111	6
SAUDI ARABIA	6	29 45 81 89 90 100	0		6
SENEGAL	8	6 12 29 81 89 98 100 121	0		8
SEYCHELLES	0		13	2 5 8 10 11 16 26 29 58 87 99 105 108	13

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
SIERRA LEONE	8	17 29 32 45 81 88 98 100	0		8
SINGAPORE	0		6	12 29 45 81 88 98	6
SLOVAKIA	14	12 17 29 42 45 88 89 90 98 100 148 155 159 161	0		14
SLOVENIA	19	2 12 29 45 81 88 89 90 98 100 121 129 148 155 156 158 159 161 162	2	17 18	21
SOLOMON ISLANDS	0		11	11 12 19 26 29 42 45 81 94 95 108	11
SOMALIA	0		8	16 17 19 23 29 45 105 111	8
SPAIN	28	12 17 29 42 45 79 81 88 90 96 98 100 103 108 127 129 137 147 148 151 154 155 156 158 159 160 162 165	0		28
SRI LANKA	2	81 98	4	18 29 45 90	6
SUDAN	6	2 29 81 100 105 111	1	98	7
SURINAME	8	17 29 41 42 81 88 118 151	0		8
SWAZILAND	8	12 29 45 81 89 90 98 100	0		8
SWEDEN	24	12 29 81 88 92 98 100 108 121 129 130 133 147 148 149 151 154 155 156 158 159 161 162 167	0		24
SWITZERLAND	16	2 6 18 29 45 81 87 88 100 102 120 128 151 154 159 160	0		16
SYRIAN ARAB REPUBLIC	9	2 17 45 81 89 100 119 120 144	8	18 19 29 88 96 98 118 129	17
TANZANIA, UNITED REPUBLIC OF	8	11 12 16 19 29 98 148 149	2	17 134	10
Tanzania (Tanganyika)	3	45 81 88	1	108	4
Tanzania (Zanzibar)	1	58	1	97	2

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
THAILAND	0		6	14 19 29 38 122 127	6
TOGO	5	6 29 41 98 100	0		5
TRINIDAD AND TOBAGO	4	29 87 97 111	1	98	5
TUNISIA	17	12 17 18 29 45 55 81 88 89 90 98 100 108 113 127 142 159	0		17
TURKEY	8	42 45 58 81 88 98 100 127	0		8
UGANDA	10	12 17 29 45 81 98 154 158 159 162	0		10
UKRAINE	9	29 45 79 90 98 100 108 149 160	0		9
UNITED ARAB EMIRATES	0		3	29 81 89	3
UNITED KINGDOM	12	12 17 29 42 81 98 100 108 147 148 151 160	0		12
UNITED STATES	3	53 74 105	1	147	4
URUGUAY	20	73 79 81 90 98 100 108 118 121 129 133 148 149 150 151 154 155 156 159 161	0		20
VENEZUELA	17	6 27 29 41 45 81 88 97 98 100 102 111 122 138 149 153 156	6	121 127 128 143 155 158	23
YEMEN	9	29 81 87 95 98 100 111 131 135	6	58 94 122 156 158 159	15
ZAIRE	0		9	12 29 81 88 89 98 100 121 158	9
ZAMBIA	9	12 17 18 29 100 149 151 154 158	4	45 89 148 159	13
ZIMBABWE	3	45 100 144	0		3
OTHER STATES					
NAURU	0		5	19 27 29 42 105	5
SAMOA	0		2	14 29	2
SOUTH AFRICA	4	2 42 45 89	0		4

Appendix II. Statistical Table of Reports Received on Ratified Conventions as at 25 February 1994

(Article 22 of the Constitution)

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1931-1932	447	-	-	406	90.8	423	94.6
1932-1933	522	-	-	435	83.3	453	86.7
1933-1934	601	-	-	508	84.5	544	90.5
1934-1935	630	-	-	584	92.7	620	98.4
1935-1936	662	-	-	577	87.2	604	91.2
1936-1937	702	-	-	580	82.6	634	90.3
1937-1938	748	-	-	616	82.4	635	84.9
1938-1939	766	-	-	588	76.8	-	-
1943-1944	583	-	-	251	43.1	314	53.9
1944-1945	725	-	-	351	48.4	523	72.2
1945-1946	731	-	-	370	50.6	578	79.1
1946-1947	763	-	-	581	76.1	666	87.3
1947-1948	799	-	-	521	65.2	648	81.1
1948-1949	806	134 ¹	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1026	212	20.6	840	81.8	917	89.3
1953-1954	1175	268	22.8	1077	91.7	1119	95.2
1954-1955	1234	283	22.9	1063	86.1	1170	94.8
1955-1956	1333	332	24.9	1234	92.5	1283	96.2
1956-1957	1418	210	14.7	1295	91.3	1349	95.1
1957-1958	1558	340	21.8	1484	95.2	1509	96.8
1958-1959	995 ²	200	20.4	864	86.8	902	90.6
1958-1960	1100	256	23.2	838	76.1	963	87.4
1959-1961	1362	243	18.1	1090	80.0	1142	83.8
1960-1962	1309	200	15.5	1059	80.9	1121	85.6
1961-1963	1624	280	17.2	1314	80.9	1430	88.0
1962-1964	1495	213	14.2	1268	84.8	1356	90.7
1963-1965	1700	282	16.6	1444	84.9	1527	89.8
1964-1966	1562	245	16.3	1330	85.1	1395	89.3
1965-1967	1883	323	17.4	1551	84.5	1643	89.6
1966-1968	1647	281	17.1	1409	85.5	1470	89.1
1967-1969	1821	249	13.4	1501	82.4	1601	87.9
1968-1970	1894	360	18.9	1463	77.0	1549	81.6
1969-1971	1992	237	11.8	1504	75.5	1707	85.6
1970-1972	2025	297	14.6	1572	77.6	1753	86.5
1971-1973	2048	300	14.6	1521	74.3	1691	82.5

¹ First year for which this figure is available.

² As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 until 1976 only on certain ratified Conventions.

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1972-1974	2189	370	16.5	1854	84.6	1958	89.4
1973-1975	2034	301	14.8	1663	81.7	1764	86.7
1974-1976	2200	292	13.2	1831	83.0	1914	87.0
1977	1529 ³	215	14.0	1120	73.2	1328	87.0
1978	1701	251	14.7	1289	75.7	1391	81.7
1979	1593	234	14.7	1270	79.8	1376	86.4
1980	1581	168	10.6	1302	82.2	1417	90.8
1981	1543	127	8.1	1210	78.4	1340	86.7
1982	1695	332	19.4	1382	81.4	1493	88.0
1983	1737	236	13.5	1388	79.9	1558	89.6
1984	1669	189	11.3	1286	77.0	1412	84.6
1985	1666	189	11.3	1312	78.7	1471	88.2
1986	1752	207	11.8	1388	79.2	1529	87.3
1987	1793	171	9.5	1408	78.4	1542	86.0
1988	1636	149	9.0	1230	75.9	1383	84.4
1989	1719	196	11.4	1256	73.0	1409	81.9
1990	1958	192	9.8	1409	71.9	1639	83.7
1991	2010	271	13.4	1411	69.9	1544	76.8
1992	1824	313	17.1	1194	65.4	1384	75.8
1993	1906	471	24.7	1233	64.6	—	—

³ As a result of a decision by the Governing Body (November 1976), detailed reports are now requested, according to certain criteria, at yearly, two-yearly or four-yearly intervals.

II. Observations on the Application of Conventions in Non-Metropolitan Territories

(Article 22 and Article 35, Paragraphs 6 and 8, of the Constitution)

A. GENERAL OBSERVATIONS

France

French Guiana, Guadeloupe, Martinique and Réunion

The Committee notes that the first report due since 1992 on Convention No. 133 has not been received. It trusts that the Government will in future discharge its obligation to supply the report on the application of this Convention.

French Southern and Antarctic Territories

Further to its previous observations, the Committee notes the general comments made by the National Federation of Maritime Trade Unions (FNSM), and the Government's reply to them. The Government again states in this connection that the standards contained in Conventions Nos. 8, 9, 15, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 111, 133, 134, 146 and 147 are implemented directly under article 55 of the Constitution of the French Republic, like those in the 1952 Overseas Labour Code, and do not need to be incorporated into any specific laws. The Committee recalls in this connection that it has already made detailed comments under Conventions that France has declared applicable to the above territory, and has referred in particular to the large number of seafarers employed on ships registered in the territory. These comments take due account of the observations sent by the FNSM, and of the information supplied by the Government, in view of the need not only to adopt legislation dealing with all aspects of the Conventions in question and to make it applicable to the above territory but also to send detailed reports to the Office using the respective report forms adopted by the Governing Body, indicating the manner in which the Conventions are applied. The Committee hopes that the Government will provide the text of Decree No. 93-979 of 1993, referred to in its report, together with any fresh information. In this connection, the Committee notes that the High Administrative Jurisdiction of the Republic has been seized of this issue by the FNSM. It asks the Government to provide the decision of the States Council as soon as it becomes available.

Moreover, the Committee notes with regret that the first reports due since 1992 on Conventions Nos. 53, 69, 74, 92, 133 and 134 have not been received. It trusts that the Government will discharge in future its obligation to supply reports due on the application of these Conventions.

[The Government is asked to report in detail for the period ending 30 June 1994 on Conventions Nos. 8, 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 111, 133, 134, 146, 147.]

* * *

In addition a request regarding certain points is being addressed directly to Netherlands (Aruba).

B. INDIVIDUAL OBSERVATIONS

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

A request regarding certain points is being addressed directly to Denmark (Greenland).

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

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

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

Requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

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

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

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

In its previous comments that it has been making for a number of years, the Committee drew the Government's attention to the fact that the Workmen's Compensation Ordinance No. 21 of 1955, as amended, contains provisions contrary to the following Articles of the Convention:

1. Article 2, paragraph 1, of the Convention (in relation with Article 2, paragraph 2(d)). Section 2(1)(a) of the Workmen's Compensation Ordinance excludes from its scope manual workers whose earnings exceed a certain limit, whereas the Convention does not authorize any exclusion of manual workers but only that of non-manual workers.

2. Article 5. In the event of death or permanent incapacity, section 8(a), (b) and (c) of the Workmen's Compensation Ordinance provides only for the payment of a lump sum, whereas Article 5 of the Convention provides that compensation payable to the injured workman or his dependants in case of permanent incapacity or death shall be paid in the form of periodical payments provided that it may be wholly or partially paid in a lump sum if the competent authority is satisfied that it will be properly utilized.

In its last report the Government indicated that, while there has been no change in the legislation, the Board of Directors of Social Security is considering at present the third actuarial evaluation of the Social Security Scheme on Workmen's Compensation/Injury Benefit, prepared with the assistance of the ILO, with a view to selecting the most suitable means of financing; it is expected that this Scheme will be brought into effect in 1994.

The Committee notes this information with interest. It hopes that the Government will be able to introduce the above Scheme in the near future and that the regulations to be adopted to this effect will ensure full application of the Convention, in particular on the above-mentioned points. The Committee asks the Government to indicate any progress made in this respect in its next report.

Bermuda

Article 5 of the Convention. In reply to the Committee's previous comments, the Government indicates that it is continuing to give consideration to the points raised by the Committee and that a complete revision of the Workmen's Compensation Act is anticipated soon. The Committee notes this information with interest. It hopes that the Act will be revised in the near future and that the new Act will give full effect to the Convention and in particular to its Article 5, which provides in case of permanent incapacity or death that the compensation payable to the injured workman or his dependants (as the case may be) shall be paid in the form of periodical payments, throughout the whole contingency, and authorizes conversion into a lump sum if the competent authority is satisfied that it will be

properly utilized. The Government is asked to indicate any progress made in this connection in its next report.

British Virgin Islands

With reference to its previous observations, the Committee notes with interest the Government's statement that the draft regulations relating to employment injury benefits are ready to be presented to the Executive Council for adoption and are expected to be adopted by the end of October 1993. In the meantime, the Social Security Board has in fact been paying employment injury benefits based on the draft regulations, pending their final passage into law. The Committee therefore expresses the hope that the next report of the Government will confirm the adoption of the Regulation so as to give full effect to the provisions of the Convention and in particular to Article 2, paragraph 2(c), as well as Articles 5, 7, 9, 10 and 11, which have been the subject of its comments for a number of years.

Hong Kong

Article 5 of the Convention. In reply to the Committee's previous observation, the Government states that it has taken note of it and will keep under review the operation of the present practice of lump-sum payments in cases of permanent incapacity or death resulting from employment injury. The Committee therefore once again expresses the hope that the Government will be in a position to establish in future the principle of the payment of this compensation in the form of periodic payments, in conformity with this Article of the Convention. The Government is requested to indicate any progress achieved in this respect.

* * *

In addition, a request regarding certain points is being addressed directly to the United Kingdom (Falkland Islands (Malvinas)).

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

France

St. Pierre and Miquelon

In its previous comments, the Committee drew the Government's attention to a number of restrictions upon foreign workers contained in section 18 of Order No. 177 of 15 March 1966 to set up an insurance scheme covering industrial accidents in the territory of St. Pierre and Miquelon and in section 29 of Decree No. 57-245 of 24 February 1957 on compensation for industrial accidents and occupational diseases in the Overseas Territories.

In this respect, the Committee notes with satisfaction that Act No. 881264 of 30 December 1988 respecting social protection, which

contains various provisions relating to the territorial community of St. Pierre and Miquelon, supplements section 12 of Ordinance No. 771102 of 26 September 1977 to extend and adapt various legislative provisions relating to social affairs to St. Pierre and Miquelon. Hence, section L.434.20 of the Social Security Code of metropolitan France, which provides that restrictions on the compensation of industrial accidents in respect of foreign workers may be modified by treaty or international agreement (such as Convention No. 19), is now an integral part of the current legislation in St. Pierre and Miquelon. The Committee also notes with interest the Government's statement in its report that the above Act No. 881264 of 1988 ensures that the legislation respecting compensation of industrial accidents is in conformity with the principle of equal treatment set forth in the Convention.

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

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 29: Forced Labour, 1930

Requests regarding certain points are being addressed directly to the following States: France (French Polynesia), Netherlands (Aruba), United Kingdom (Anguilla, Gibraltar).

Convention No. 53: Officers' Competency Certificates, 1936

Information supplied by the United States (American Samoa, Guam, Trust Territory of the Pacific Islands (Palau), Puerto Rico and the United States Virgin Islands) in answer to a direct request has been noted by the Committee.

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

Netherlands

Netherlands Antilles

The Committee notes from the Government's most recent report that no progress has been made in the intended re-evaluation of the Labour Regulation with the aim, among other objectives, of setting a minimum age of 15 years for admission to employment for all kinds of work. The Committee has for several years been pointing out the need for the adoption of legislation to ensure the application of the Convention

and trusts that the Government's next report will indicate the progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1994.]

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

A request regarding certain points is being addressed directly to France (St. Pierre and Miquelon).

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

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

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

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 74: Certification of Able Seamen, 1946

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 81: Labour Inspection, 1947

Requests regarding certain points are being addressed directly to the following States: France (French Polynesia and New Caledonia), Netherlands (Aruba) and the United Kingdom (Gibraltar and Hong Kong).

Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947

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

**Convention No. 87: Freedom of Association and Protection
of the Right to Organise, 1948**

Requests regarding certain points are being addressed directly to the Netherlands (Aruba and Netherlands Antilles).

Convention No. 89: Night Work (Women) (Revised), 1948 [and Protocol, 1990]

A request regarding certain points is being addressed directly to France (New Caledonia).

Convention No. 92: Accommodation of Crews (Revised), 1949

Requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique and Réunion).

Convention No. 98: Right to Organise and Collective Bargaining, 1949FranceFrench Southern and Antarctic Territories

The Committee notes the Government's report.

It also notes the comments made by the National Federation of Seafarers' Unions (FNSM) dated 23 September 1993 which supplement its earlier comments. It notes the FNSM's indication that by virtue of a Decree and an Order of 4 August 1993, registration in the French Southern and Antarctic Territories (TAAF), which is governed by Decree No. 87.190 of 20 March 1987 and the Order of 20 March 1987, has been extended to almost all French vessels, and that treatment on board these vessels is discriminatory for foreign seafarers from poor countries, in breach of ILO Conventions.

In its previous observation, the Committee noted the Government's indication that the Overseas Labour Code applied to seafarers on vessels registered in the French Southern and Antarctic Territories but that there were no collective agreements because the social partners had failed to conclude any. It had nevertheless specified that the Secretary of State for the Sea was endeavouring to give rise to a commitment to negotiation in order to establish enterprise-level collective agreements. The Government merely indicated that the question of the legality of the Decree of 4 August 1993 with respect to the international Conventions ratified by France, was being examined by the Council of State.

The Committee is bound to remind the Government once again that on ratifying the Convention it undertook to encourage and promote the development and utilization of machinery for voluntary collective bargaining as a means of regulating the terms and conditions of

employment of seafarers. It again asks the Government to indicate in its next report whether the call for collective negotiations made by the Secretary of State for the Sea to the social partners in the maritime sector has led to the conclusion of collective agreements on board vessels registered in the French Southern and Antarctic Territories and, if so, to provide copies of any such agreements. Moreover, it requests the Government to provide a copy of the judgement handed down by the Council of State on the issue of the Decree of 4 August 1993.

United Kingdom

Isle of Man

1. The Committee notes the Government's report as well as the summary observations of the Isle of Man Trades Council.

2. In its previous direct request, the Committee had asked the Government to amend the Employment Bill so that it provided for adequate protection against anti-union discrimination at the time of recruitment in conformity with Article 1 of the Convention. Similarly, the Committee had asked that this Employment Bill be reinforced by the adoption of sufficiently effective and dissuasive sanctions since the only remedy available under this Bill to an employee who had been dismissed on grounds of trade union membership or activities was an order of compensation.

3. The Committee notes with regret from the Government's reply that the final form of the Employment Act which was introduced in 1991 has not been modified and that there are no immediate plans by the Government to introduce measures in specific regard to the matters referred to in the Committee's previous direct request. These matters are nevertheless the subject of ongoing consideration according to the Government. The Committee once again requests the Government to take steps to ensure that there is adequate legislative protection against anti-union discrimination at the time of recruitment as well as against dismissal on grounds of trade union membership or activities in conformity with Article 1; it accordingly asks the Government to take action to amend the Employment Act 1991 so as to bring, at an early date, its legislation into full conformity with the requirements of the Convention and to supply in its next report information on any progress made in this regard.

* * *

In addition, requests regarding certain points are being addressed directly to the United Kingdom (Guernsey and Hong Kong).

Information supplied by Australia (Norfolk Island) in answer to a direct request has been noted by the Committee.

Convention No. 100: Equal Remuneration, 1951

Requests regarding certain points are being addressed directly to the following States: France (French Guiana, French Polynesia, Guadeloupe, Martinique, Réunion and St. Pierre and Miquelon) and New Zealand (Tokelau Islands).

Information supplied by France (New Caledonia) in answer to a direct request has been noted by the Committee.

Convention No. 108: Seafarers' Identity Documents, 1958

Requests regarding certain points are being addressed directly to France (French Southern and Antarctic Territories) and the United Kingdom (Anguilla).

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

France

French Southern and Antarctic Territories

1. The Committee notes the comments of the National Federation of Maritime Trade Unions (FNSM), which were transmitted in September 1993, concerning the continuation of discrimination in employment on the grounds of the origin of seafarers.

2. The Committee recalls that the comments which the FNSM has been making for many years concern the system for the registration of vessels in the French Southern and Antarctic Territories, which is governed by Decree No. 87-190 and the Order of 20 March 1987. According to this legislation, the proportion of crew members of French nationality may not be less than 25 per cent of the seafarers registered on the crew list, including two to four officers depending on the type of vessel. According to FNSM, this means that 75 per cent of registered crews can be comprised of foreign seafarers engaged under discriminatory conditions, the purpose being to reduce crew costs as far as possible by cutting back on the social conditions of the foreigners so engaged.

3. In its latest comments, the FNSM states that the Government continues to require vessels to be registered in the Kerguelen register. It notes that Decree No. 93-979 and the Order of 4 August 1993 extend the registration of vessels in the French Southern and Antarctic Territories register to nearly all vessels. It criticizes the situation on board vessels registered in the French Southern and Antarctic Territories, which it describes as "rampant apartheid ... under which foreign persons are the victims of racial and social discrimination".

4. The Committee notes that the Government's report has not been received, nor its reply to the recent comments of the FNSM. The Committee is therefore bound once again to draw the Government's

attention to the conclusions reached in its 1992 observation and once again requests it to indicate in its next report the measures which have been taken or are contemplated to bring national practice into conformity with section 91 of the Overseas Labour Code and the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to France (French Guiana, French Southern and Antarctic Territories, Guadeloupe, Martinique, Réunion and St. Pierre and Miquelon).

Convention No. 113: Medical Examination (Fishermen), 1959

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 114: Fishermen's Articles of Agreement, 1959

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 121: Employment Injury Benefits, 1964 [Schedule I amended in 1980]

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 122: Employment Policy, 1964

Requests regarding certain points are being addressed directly to the following States: Denmark (Greenland), France (French Polynesia, New Caledonia, St. Pierre and Miquelon), Netherlands (Aruba, Netherlands Antilles), United Kingdom (Hong Kong, Isle of Man).

Convention No. 126: Accommodation of Crews (Fishermen), 1966

Information supplied by France (French Guiana, Guadeloupe, Martinique, Réunion and St. Pierre and Miquelon) in answer to a direct request has been noted by the Committee.

Convention No. 127: Maximum Weight, 1967

A request regarding certain points is being addressed directly to France (French Polynesia).

Convention No. 129: Labour Inspection (Agriculture), 1969

Requests regarding certain points are being addressed directly to the following States: France (French Polynesia, New Caledonia) and Netherlands (Aruba).

Convention No. 131: Minimum Wage Fixing, 1970FranceGuadeloupe

The Committee notes the comments made by the General Confederation of Labour "Force-ouvrière" (CGT-FO), on the application of the Convention in Guadeloupe, which were forwarded by the Government with its report. It notes that the Government has made no observations on the CGT-FO's comments, according to which it would be fair if the minimum wage (SMIC) applicable in that Department were the same as that in metropolitan France, particularly since, according to the information available to the CGT-FO, in practice the payment of the SMIC could be subject to practices which consist of combining social benefits with a wage which is lower than the SMIC. Through these practices, it is possible to reach a level of overall remuneration which is higher than the SMIC, but which is not subject to social contributions. The CGT-FO considers that the existence of this practice tends to show that the level of the SMIC in Guadeloupe is not such as to ensure a decent standard of living.

The Committee requests the Government to make its observations on these comments. Furthermore, it is addressing a request directly to the Government on other points.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon), Netherlands (Aruba).

**Convention No. 133: Accommodation of Crews
(Supplementary Provisions), 1970**

Requests regarding certain points are being addressed directly to the United Kingdom (Bermuda and Hong Kong).

Convention No. 134: Prevention of Accidents (Seafarers), 1970FranceFrench Southern and Antarctic Territories

With reference to its general observation concerning the French Southern and Antarctic Territories, the Committee hopes that the Government will supply information on the manner in which the Convention is applied to vessels registered in the French Southern and Antarctic Territories.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Convention No. 135: Workers' Representatives, 1971

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 137: Dock Work, 1973

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 138: Minimum Age, 1973

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 140: Paid Educational Leave, 1974

A request regarding certain points is being addressed directly to Netherlands (Aruba).

Convention No. 142: Human Resources Development, 1975

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 144: Tripartite Consultation
(International Labour Standards), 1976**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 145: Continuity of Employment (Seafarers), 1976

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 147: Merchant Shipping (Minimum Standards), 1976United KingdomBermuda

Article 2(a), (d), (e) and (f) of the Convention. Further to its previous comments, the Committee notes that, in respect of several matters which are required by the Convention to be the object of laws or regulations for ships registered in the territory, it appears that the necessary action has not yet been taken. These concern, first, hours of work and provisions substantially equivalent to Convention No. 73 as regards medical examination: as to these, the Committee refers to its observation addressed to the United Kingdom. Secondly, as regards the need for legislation specifically relating to crew accommodation, food and catering, officers' competency and social security, and information on engagement and verification and inspection procedures, in respect of ships registered in the territory, the Committee refers to its direct request addressed to Bermuda.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to France (French Guiana, French Polynesia, French Southern and Antarctic Territories, Guadeloupe, Martinique, Réunion and St. Pierre and Miquelon), the Netherlands (Aruba), the United Kingdom (Bermuda) and the United States (American Samoa, Guam, Puerto Rico, Trust Territory of the Pacific (Palau) and the United States Virgin Islands).

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977

Requests regarding certain points are being addressed directly to the United Kingdom (Anguilla, Guernsey and Hong Kong).

Convention No. 149: Nursing Personnel, 1977

Requests regarding certain points are being addressed directly to France (French Guiana, French Polynesia, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Convention No. 151: Labour Relations (Public Service), 1978

United Kingdom

Hong Kong

The Committee notes the detailed information supplied by the Government in its report, as well as the observations of the Hong Kong Confederation of Trade Unions (HKCTU) and the reply of the Government thereto.

1. Article 7 of the Convention. The Committee takes note of the information provided by the Government on the functioning, in practice, of the consultation and collective bargaining machinery. It further notes the comments by the HKCTU indicating that it does not share the Government's view that the machinery has worked well and that the present system should be replaced by collective bargaining.

The Committee would recall, however, that Article 7 requires measures appropriate to national conditions to be taken for the development and utilization of machinery for negotiation or of such other methods allowing staff representatives to participate in the determination of their employment conditions. It observes that consultative machinery is in place at the central, departmental and

personal levels which allows staff representatives to participate in the determination of civil service employment matters.

2. Article 8. The Committee notes the HKCTU's statement that it does not believe that the principles of the Convention pertaining to dispute settlement have been applied to the settlement of disputes in the public services. The decision to establish an independent committee of inquiry to resolve a dispute rests with the Governor, and he has often been unwilling to do so.

The Committee recalls that under Article 8, the settlement of disputes should be sought "through negotiation between the parties or through independent and impartial machinery ..., established in such a manner as to ensure the confidence of the parties involved". It observes in this respect the Government's reply, that disputes between the Government and the staff side are settled through consultation and continued dialogue and that, where they cannot be resolved after full and proper consultation, and after exhausting other existing administrative channels, the matter can be referred to an independent committee of inquiry under the 1968 Agreement made between the Government and the three main staff associations. Moreover, to ensure impartiality, both parties can each nominate a member to the committee, the Chairman of which will be appointed by the Governor of Hong Kong. The Governor can decide to invoke a committee of inquiry or the staff side can request him to do so. However, it is laid down in the Agreement that such a committee will not be invoked on a matter which is trivial, of settled public policy, or which affects the security of Hong Kong.

The Committee trusts that in future, the principles of the Convention will be applied to the settlement of disputes in the public service, so as to ensure the confidence of the parties involved.

**Appendix. Receipt of Detailed Reports on Ratified Conventions
(Non-Metropolitan Territories) as at 25 February 1994**

(Article 22 and 35 of the Constitution)

<i>Countries and Territories</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
Grand Total	243		144		387
AUSTRALIA					
NORFOLK ISLAND	1	98	1	29	2
TOTAL	1		1		2
DENMARK					
FAEROE ISLANDS	5	6 12 18 29 98	0		5
GREENLAND	2	6 29	0		2
TOTAL	7		0		7
FRANCE					
FRENCH SOUTHERN AND ANTARCTIC TERRITORIES	6	8 22 23 98 108 147	6	53 69 74 92 133 134	12
FRENCH GUIANA	16	3 5 12 17 42 53 69 74 92 108 125 126 131 141 142 147	20	6 13 29 32 45 58 81 89 94 95 98 100 111 112 120 129 133 136 144 149	36
FRENCH POLYNESIA	17	6 12 17 19 37 38 42 45 81 88 89 98 100 108 127 129 147	2	29 149	19
GUADELOUPE	16	3 5 12 17 42 53 69 74 92 108 125 126 131 141 142 147	20	6 13 29 32 45 58 81 89 94 95 98 100 111 112 120 129 133 136 144 149	36
MARTINIQUE	16	3 5 12 17 42 53 69 74 92 108 125 126 131 141 142 147	21	6 13 29 32 45 58 81 89 94 95 98 100 111 112 120 124 129 133 136 144 149	37
NEW CALEDONIA	17	6 12 17 29 42 45 81 88 89 98 100 108 127 129 142 147 149	0		17

REPORT OF THE COMMITTEE OF EXPERTS

Countries and Territories	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
REUNION	16	3 5 12 17 42 53 69 74 92 108 125 126 131 141 142 147	20	6 13 29 32 45 58 81 89 94 95 98 100 111 112 120 129 133 136 144 149	36
ST. PIERRE AND MIQUELON	17	3 5 9 12 17 19 33 42 53 69 108 125 126 131 141 142 147	22	6 13 29 45 58 63 81 82 87 88 89 94 95 96 98 100 111 120 122 129 144 149	39
TOTAL	121		111		232
NETHERLANDS					
ARUBA	0		19	12 17 29 45 81 87 88 89 90 113 114 121 129 135 138 140 142 145 147	19
NETHERLANDS ANTILLES	9	12 17 29 42 45 81 88 89 90	0		9
TOTAL	9		19		28
NEW ZEALAND					
TOKELAU	2	29 100	0		2
TOTAL	2		0		2
UNITED KINGDOM					
ANGUILLA	8	12 17 29 42 85 98 108 148	0		8
BERMUDA	7	12 17 29 42 98 108 147	0		7
BRITISH VIRGIN ISLANDS	6	12 17 29 85 98 108	0		6
FALKLAND ISLANDS (MALVINAS)	7	12 17 29 42 45 98 108	0		7
GIBRALTAR	13	2 12 17 29 42 45 81 98 100 108 147 151 160	0		13
GUERNSEY	9	12 17 29 42 81 98 108 148 151	0		9
HONG KONG	15	2 12 14 17 23 29 42 45 81 90 98 108 147 148 151	0		15
ISLE OF MAN	8	12 17 29 42 81 98 108 147	0		8

NON-METROPOLITAN TERRITORIES

<i>Countries and Territories</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
JERSEY	9	2 12 17 29 42 81 98 108 160	0		9
MONTSERRAT	6	12 17 29 42 85 108	1	98	7
ST. HELENA	7	12 17 29 85 98 108 151	0		7
TOTAL	95		1		96
UNITED STATES					
AMERICAN SAMOA	1	53	2	144 147	3
GUAM	2	53 74	2	144 147	4
NORTHERN MARIANA ISLANDS	0		2	144 147	2
PALAU	1	53	2	144 147	3
PUERTO RICO	2	53 74	2	144 147	4
UNITED STATES VIRGIN ISLANDS	2	53 74	2	144 147	4
TOTAL	8		12		20

III. Observations concerning the Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference

(Article 19 of the Constitution)

Afghanistan

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will shortly provide information on the Conventions and Recommendations adopted at the 71st, 72nd, 74th, 75th and 76th Sessions of the Conference, already submitted to the government bodies concerned, which are required in the memorandum adopted by the Governing Body (points I, II, and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and 79th Sessions have been submitted.

Algeria

The Committee notes with regret that, this year once again, the Government has not replied to its previous observations. It recalls that the instruments adopted from the 65th to the 72nd Sessions and at the 75th Session of the Conference, which were transmitted to the General Secretariat of the Government and the President of the Republic, should be submitted as soon as circumstances permit to the People's National Assembly as the authority vested with the power to issue general rules concerning labour law pursuant to Article 115 of the Algerian Constitution. The Committee hopes that the Government will shortly indicate whether the instruments adopted at the 74th, 76th, 77th and 78th Sessions have been submitted. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Antigua and Barbuda

The Committee regrets to note that, for the eighth consecutive year, the Government has not replied to its previous comments. It recalls that the instruments adopted at the 68th Session of the Conference, which were submitted to the Cabinet, should also have been submitted, in accordance with article 19, 5(b) and 6(b) of the Constitution of the ILO, to the authorities which are empowered to legislate. The Committee therefore trusts that the Government will

SUBMISSION TO COMPETENT AUTHORITIES

submit the above instruments, together with those adopted at the 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th and 79th Sessions, to the legislative body. The Committee recalls that the obligation to submit does not imply that governments must propose the ratification of the Conventions or the application of the Recommendations under consideration. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

Bangladesh

With reference to its previous comments, the Committee notes the information supplied by the Government in its report and at the Conference in 1993, and the discussions that took place subsequently concerning the reasons for the delay in submitting the instruments adopted by the Conference to the competent authorities. In its previous comments, the Committee noted that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference were placed before the Parliamentary Standing Committee on 11 May 1992 and that the Committee expressed the opinion that they should be submitted to Parliament. In the absence of any further information, the Committee trusts that the Government will indicate in the near future that these instruments have been submitted and that it will supply the information and documents concerning them that are requested in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

Belize

In the absence of a reply to its previous observation, the Committee hopes that the Government will soon provide information on the submission of the instruments adopted from the 69th to the 76th Sessions of the Conference. The Government stated previously that, since the preparatory work had been completed, the instruments would be submitted in the near future.

Consequently, the Committee hopes that the Government will shortly be in a position to state that the instruments adopted from the 69th to the 76th Sessions of the Conference have been submitted to the National Assembly which is empowered to legislate by virtue of Articles 62 and 69 of the National Constitution, and that it will supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and 79th Sessions of the Conference have been submitted.

Bolivia

The Committee notes the information supplied by the Government in its report to the effect that the instruments adopted at the 77th, 78th and 79th Sessions of the Conference have been submitted to the National Congress.

The Committee trusts that the Government will shortly supply, in respect of the instruments adopted at the 60th and the 63rd to the 75th, 77th, 78th and 79th Sessions of the Conference, which have already been submitted to Congress, the information and documents requested in the Memorandum adopted by the Governing Body (points II(b) and (c), and III of the questionnaire).

Brazil

The Committee regrets to note that the Government has not replied to its previous observation in which it noted that the remaining instruments (Conventions Nos. 128 to 130, 149 to 151, 156 and 157) would shortly be examined by the tripartite committees with a view to their submission to Congress. The Committee therefore trusts that the Government will submit the above instruments to Congress, as well as those which were adopted at the 52nd, 78th and 79th Sessions of the Conference.

Cambodia

The Committee notes that, this year once again, the Government has not replied to its previous observations. It hopes that the Government will soon provide information on the submission to the competent authorities of the instruments adopted by the Conference.

Central African Republic

The Committee notes with regret that once again this year the Government has not replied to the observations which it has been making since 1991. It trusts that the Government will soon indicate that the instruments adopted at the 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities and that it will transmit, for these instruments and for those adopted at the 65th, 69th, 70th, 71st, 72nd and 74th Sessions, which have already been submitted, the information and documents called for required in the Memorandum adopted by the Governing Body (points I, II and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

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Congo

Further to its previous comments, the Committee notes the statement by a Government representative to the Conference Committee in 1993 concerning the reasons for the delay in submitting the instruments adopted by the Conference to the competent authorities. It also notes the ensuing discussion and the conclusions reached by the Conference Committee. The Committee trusts that the Government will indicate in the near future that the instruments adopted at the 60th, 61st, 62nd, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th and 79th Sessions of the Conference and the remaining instruments from the 54th, 55th, 58th, 63rd and 67th Sessions (Conventions Nos. 137, 148 and 156 and Recommendations Nos. 135 to 142, 145, 156, 163, 164 and 165) have been submitted to the competent authorities.

Costa Rica

The Committee notes that the Government has not replied to its previous observations. It hopes that it will shortly indicate that the Conventions adopted at the 71st, 72nd, 74th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities, in view of the fact that, according to the information supplied by the Government in its report, the first submission of the above instruments has been annulled due to a procedural fault.

Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply that governments must ratify the Conventions or accept the Recommendations in question.

Djibouti

The Committee notes with regret that the Government has not replied to its previous observations for several years. It trusts that the Government will soon indicate that the instruments adopted at the 66th, 68th, 69th, 70th, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities and that it will supply, for the above instruments and for those adopted at the 71st and 72nd Sessions, the information and documents called for in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

Ecuador

The Committee notes the information supplied by the Government in its report to the effect that the instruments adopted at the 74th, 75th and 77th Sessions of the Conference have not yet been submitted

to the National Congress. The Committee hopes that the Government will indicate in the near future that the above instruments have been submitted to Congress. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have also been submitted.

El Salvador

The Committee regrets to note that once again this year the Government has not replied to the observations which it has been making since 1989. In view of the fact that peace has been restored, it trusts that the Government will be able to indicate soon that the instruments adopted at the 62nd, 65th, 66th, 67th, 68th, 70th, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference, and the remaining instruments of the 63rd, 64th, 69th and 71st Sessions (Conventions Nos. 148, 151 and 161; Recommendations Nos. 156, 157, 158, 159, 167 and 171), have been submitted to the competent authorities and that it will provide in respect of these instruments the documents and information requested in the Memorandum adopted by the Governing Body (points II(a), (b) and (c), and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

Fiji

The Committee notes with satisfaction the submission to the competent authorities of the instruments adopted at the 75th, 76th, 77th and 78th Sessions of the Conference. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Gabon

With reference to its previous comments, the Committee notes with satisfaction the information supplied by the Government to the effect that the instruments adopted at the 65th, 66th, 67th, 68th, 69th, 70th, 72nd, 75th, 76th, 77th, 78th and 79th Sessions have been submitted to the National Assembly.

The Committee hopes that the Government will shortly indicate whether the instruments adopted at the 74th Session of the Conference have been submitted to the competent authorities.

Guatemala

In the absence of a reply to its previous direct request, the Committee hopes that the other instruments adopted at the 75th Session of the Conference (Convention No. 168 and Recommendation No. 176), and

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the instrument adopted at the 76th Session, will be submitted in the near future to the competent authorities. With regard to Recommendation No. 170, it will be considered to have been submitted as soon as the ILO has received the official instrument of ratification of Convention No. 160, which has already been submitted and for which the decree to ratify the Convention adopted by Congress has already come into force, according to the information supplied by the Government in October 1991, has been received by the ILO.

With regard to the instruments adopted at the 74th (Maritime) Session, the Government states that it has not considered it appropriate to ratify them due to the fact that Guatemala has no merchant navy. The Committee wishes to point out in this respect that the obligation to submit the instruments adopted by the Conference to the competent authorities, as set out in the ILO Constitution, applies to all Conventions and Recommendations without exception. However, this obligation does not imply that governments have to ratify or apply the instruments. The Committee therefore hopes that the Government will soon be able to indicate that it has submitted the above instruments to Congress.

Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and 79th Sessions have been submitted.

Guinea

The Committee notes with regret that, this year once again, the Government has not replied to its previous observations. It hopes that the Government will soon provide, in respect of the instruments adopted from the 68th to 75th Sessions of the Conference, which have been submitted to the competent authorities, the information requested under points II(b) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 76th, 77th, 78th and 79th Sessions of the Conference have been submitted.

Guyana

With reference to its previous observation, the Committee notes the information supplied by the Government concerning the special difficulties encountered in submitting to the competent authorities the instruments adopted at the 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference. It hopes that the Government will shortly indicate that the instruments adopted at the above Sessions of the Conference have been submitted to Parliament. Furthermore, the Committee requests the Government to indicate whether the instruments adopted at the 78th and 79th Sessions have been submitted.

The Committee recalls that the obligation to submit instruments adopted by the Conference does not imply that Conventions must be ratified or Recommendations accepted.

Honduras

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon provide, in respect of the instruments adopted at the 69th, 71st and 72nd Sessions of the Conference which have already been submitted, the information requested in the Memorandum adopted by the Governing Body (points II(b) and (c), and III of the questionnaire), as well as a copy of the document by which the instruments adopted at the 75th Session were submitted. The Committee hopes that the Government will also provide a copy of the communication by which the instruments adopted at the 67th Session were submitted to the National Assembly by the President of the Republic, and a copy of the communication by which the Minister of Foreign Affairs submitted the instruments adopted at the 70th Session to the Assembly, and that it will indicate whether the remaining instruments adopted at the 74th Session and those adopted at the 76th, 77th and 78th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would also state whether the instruments adopted at the 79th Session of the Conference have been submitted.

India

With reference to its previous comments, the Committee notes with interest the information supplied by the Government to the effect that the instruments adopted at the 74th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities. Further, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

Islamic Republic of Iran

With reference to its previous comments, the Committee notes with satisfaction, according to the information supplied by the Government, the submission to the competent authorities of the instruments adopted from the 64th to the 76th and at the 78th and 79th Sessions of the Conference.

Italy

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly supply a copy of the communication by which the instrument adopted at the 76th Session of the Conference was submitted to Parliament. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and 79th Sessions of the Conference have been submitted.

Jamaica

The Committee notes with regret that once again this year the Government has not replied to the observations that it has been making for several years. It trusts that the Government will shortly indicate that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to Parliament. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

In its previous comments, the Committee recalled the statement by a Government representative to the Conference Committee in 1984 that Convention No. 132, Recommendation No. 136 and the instruments adopted from the 61st to the 69th Sessions of the Conference have been submitted to Parliament. It expressed the hope that the Government would provide the other information and documents called for by the Memorandum adopted by the Governing Body (points I and II of the questionnaire) (except as concerns Conventions Nos. 149 and 150, which have been ratified, and the corresponding Recommendations Nos. 157 and 158) and that it would supply information on the proposals made and decisions taken with regard to the 45 instruments submitted to Parliament by a communication of the Minister of Labour and Employment dated 22 November 1976. The Committee once again expresses the hope that the Government will shortly provide the information and documents in question.

Kenya

Further to its previous observation, the Committee notes the information supplied by the Government in its report and the statement by a Government representative to the Conference Committee in 1993 to the effect that the delay in the submission of the various instruments is due to certain unavoidable administrative difficulties. The Committee also notes that, according to the same information, the technical work relating to the submission of Convention No. 154 (67th Session) and Convention No. 169 (76th Session) has been completed. The Committee trusts that the Government will soon be in a position to announce that the instruments adopted at the 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th and 78th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply that the Government must ratify the Conventions or accept the Recommendations.

Lao People's Democratic Republic

The Committee notes the information supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 79th Session of the Conference.

It hopes that the Government will supply information on the effect given to the instruments adopted from the 66th to the 75th Sessions of the Conference, which have already been submitted to the competent authorities, and that it will continue to submit, by stages if necessary, the remaining instruments adopted from the 48th to the 65th Sessions in the near future.

Lebanon

Further to its previous observation, the Committee notes the information supplied by the Government to the effect that the instruments adopted from the 67th to the 77th Sessions of the Conference have been forwarded to the President of the Council of Ministers with a view to their submission to Parliament. The Committee hopes that the Government will soon be able to indicate that all the instruments adopted from the 67th to the 79th Sessions, as well as the instruments adopted from the 31st to the 50th Sessions of the Conference, have been submitted to the competent authorities.

Lesotho

With reference to its previous comments, the Committee notes the information communicated that the Government is in the process of submitting Conventions to the relevant authorities according to the new constitutional procedures. The Committee wishes to point out in this respect that the obligation to submit the instruments adopted by the Conference to the competent authorities, as set out in the ILO Constitution, applies to all Conventions and Recommendations without exception. It trusts that the Government will soon indicate that Convention No. 157, adopted at the 68th Session of the Conference, as well as the instruments adopted at the 69th, 70th, 74th, 75th, 76th, 77th and 78th Sessions, have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Libyan Arab Jamahiriya

The Committee notes with regret that, once again this year, the Government has not replied to its previous observations. It hopes that it will soon indicate that the instruments adopted at the 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session have been submitted.

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Madagascar

The Committee notes with regret that, once again this year, the Government has not replied to the observations which it has been making since 1988. It trusts that the Government will soon supply information with regard to the proposals formulated at the time of the submission to the competent authorities of the instruments adopted at the 69th Session of the Conference, and that it will indicate that the instruments adopted at the 55th, 71st, 72nd, 74th, 75th, 76th, 77th and 78th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at 79th Session of the Conference have been submitted.

Malawi

The Committee notes with regret that the Government has not replied to its previous observation. It hopes that the Government will supply certain information concerning the submission to the competent authorities of the numerous Conventions adopted over the various Sessions (from the 55th to the 75th) of the Conference and which are called for in the Memorandum adopted by the Governing Body (point I of the questionnaire at the end of the Memorandum). The Committee also hopes that Convention No. 143 (60th Session), Convention No. 145 (62nd Session) and Convention No. 169 (76th Session), and Recommendations Nos. 137 to 142, 145 to 151, 153 to 156, 158 to 165, 167 and 169 to 176 will shortly be submitted to the competent authorities. It would also be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and 79th Sessions of the Conference have been submitted.

Mali

Further to its previous comments, the Committee notes with satisfaction, according to the information supplied by the Government, that the instruments adopted at the 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the National Assembly. It would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Mauritius

With reference to its previous observation, the Committee notes with interest the information supplied by the Government to the effect that the instruments adopted at the 64th, 68th and 77th Sessions of the Conference have been submitted to Parliament. It hopes that the Government will be in a position in the near future to announce that the remaining instruments adopted at the 60th Session (Conventions Nos. 141 and 142, and Recommendations Nos. 149 and 150), 63rd Session

(Convention No. 149 and Recommendation No. 157), 65th Session (Convention No. 152 and Recommendation No. 160), 69th Session (Recommendation No. 167) and 71st Session (Convention No. 160 and Recommendation No. 170), and the instruments adopted at the 66th, 70th and 78th Sessions of the Conference, have been submitted to Parliament. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Mongolia

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly be in a position to supply information on the proposals and decisions made concerning the instruments adopted at the 68th, 69th, 70th and 71st Sessions of the Conference, which have already been submitted to the competent authorities. It would also be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

Mozambique

With reference to its previous observation, the Committee notes from the information supplied by the Government that Conventions Nos. 170 and 171 (77th Session) have been submitted to the Assembly. The Committee hopes that the Government will shortly indicate that Recommendations Nos. 177 and 178 (77th Session) have been submitted and that the instruments adopted at the 69th, 70th, 71st and 72nd Sessions of the Conference, which have already been submitted to the Council of Ministers, have been submitted to the Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th and 79th Sessions of the Conference have been submitted.

Pakistan

The Committee notes the information supplied by the Government, according to which the instruments adopted at the 69th and 74th Sessions of the Conference have been submitted to the competent authority. The Committee also notes the information provided by the Government, to the effect that the instruments adopted at the 75th to 77th Sessions of the Conference have been sent to the concerned governments, workers' and employers' organizations for ascertaining their views and the comments received from them will be incorporated in a summary to be submitted to the competent authority shortly.

The Committee hopes that the Government will be able to indicate in the near future that the instruments adopted from the 75th to 77th Sessions of the Conference have been submitted. Furthermore, it would be grateful if the Government would indicate whether the instruments

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adopted at the 78th and 79th Sessions of the Conference have been submitted.

Panama

With reference to its previous comments, the Committee notes with satisfaction that, according to the information supplied by the Government, the instruments adopted at the 71st Session (Recommendations Nos. 170 and 171) and the 72nd Session (Recommendation No. 172), and at the 74th, 75th, 76th, 77th, 78th and 79th Sessions of the Conference have been submitted to the Legislative Assembly.

Papua New Guinea

In its previous comments, the Committee noted that the instruments adopted from the 70th to the 77th Sessions had been submitted to the National Executive Council - the highest governmental authority - which had approved them and that their submission for adoption by the National Parliament was only a formality. The Committee notes, from the information supplied by the Government, that no progress has been achieved in the submission of the above instruments to the competent authorities. The Committee hopes that the Government will soon be able to indicate that the instruments adopted from the 66th to the 77th Sessions of the Conference, as well as those adopted at the 78th and 79th Sessions, have been submitted to the competent authorities. It recalls that the obligation to submit does not imply that Governments have to propose the ratification of Conventions or the application of the Recommendations under consideration. Governments have full freedom as to the nature of the proposals which they make concerning the Conventions and Recommendations which are submitted to the competent authorities.

Paraguay

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly indicate that the instruments adopted at the 68th and 69th Sessions (Recommendation No. 167) and at the 70th, 71st, 72nd, 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted to the competent authorities.

The Committee recalls that the obligation to submit instruments adopted by the Conference does not imply any obligation to ratify Conventions or accept Recommendations.

Peru

With reference to its previous comments, the Committee notes the information supplied by the Government to the effect that by means of Supreme Resolutions Nos. 257 and 258-93-RE of 30 July 1993, Convention No. 169 (76th Session), Convention No. 170 and Recommendation No. 177 (77th Session) have been submitted to Congress. The Committee also notes the Government statement that in view of the length of time that has elapsed and the substantial legislative changes in the legal system, it is necessary to update the technical studies so that Congress can decide whether or not to approve Conventions Nos. 153, 155 and 157, and Recommendations Nos. 161, 164 and 167 adopted at the 65th, 67th, 68th, 72nd, 74th, 75th, 77th (Convention No. 171 and Recommendation No. 178) and 78th Sessions of the Conference as well as the information requested in points II and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. Furthermore, the Committee hopes that the Government will be able to indicate shortly that the instruments adopted at the 70th and 79th Sessions of the Conference have also been submitted.

Saint Lucia

The Committee notes with regret that, this year once again, the Government has not replied to the observations it has made since 1990. It trusts that the Government will shortly indicate that the instruments adopted at the 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authorities and that it will supply the information and documents requested in respect of these instruments in the Memorandum adopted by the Governing Body, particularly as regards the nature of the competent authorities and the Government's proposals or comments on the action to be taken concerning the instruments in question (points I(a) and II(b) of the questionnaire). Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and 79th Sessions have been submitted. It recalls in this connection that the authorities to which these instruments must be submitted are those empowered to legislate, and that the obligation to submit the instruments to them does not imply that governments must propose the ratification or application of the said instruments.

Seychelles

The Committee notes with regret that, this year once again, the Government has not replied to the observations it has been making since 1982. Consequently, it expresses the firm hope that it will shortly indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th and 79th Sessions of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b), of the ILO Constitution. It recalls in this connection that

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the authorities to which these instruments must be submitted are those empowered to legislate, in this instance the People's Assembly. It also recalls that the obligation to submit does not imply that governments must propose the ratification of the Conventions or the application of the Recommendations concerned. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities; they may also request technical assistance from the ILO in areas where they encounter difficulties.

Sierra Leone

With reference to its previous observation, the Committee notes from the information supplied by the Government that, this year once again, none of the instruments adopted by the Conference have been submitted. It hopes that the Government will be able to indicate shortly that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th and 79th Sessions of the Conference, and Convention No. 146 and Recommendation No. 154 adopted at the 62nd Session have been submitted to the competent authorities.

Solomon Islands

The Committee notes with regret that the Government has not replied to its previous observations. It hopes that the Government will indicate rapidly whether any proposals have been made concerning the instruments adopted at the 74th Session of the Conference, which have already been submitted to the competent authorities, and that it will specify their content, as required by the Memorandum adopted by the Governing Body (point II(c) of the questionnaire). The Committee also hopes that the Government will soon indicate that the instruments adopted at the 70th, 71st, 72nd, 75th, 76th, 77th and 78th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Suriname

The Committee notes that the Government has not replied to its previous observation. It hopes that it will soon indicate that the instruments adopted at the 65th (Recommendations Nos. 160 and 161), 67th (Convention No. 154 and Recommendations Nos. 163, 164 and 165), 68th (Convention No. 158 and Recommendation No. 166), 71st (Convention No. 160 and Recommendation No. 170), 72nd and 79th Sessions of the Conference have been submitted. It asks the Government to provide in respect of these instruments the information and documents requested in the Memorandum adopted by the Governing Body.

Swaziland

The Committee notes that the Government has not replied to its previous comments. It hopes that it will soon supply, with regard to the instruments adopted at the 74th, 75th, 76th and 78th Sessions of the Conference, and Convention No. 170 and Recommendation No. 177 (77th Session), as well as the instruments adopted at the 68th, 69th, 71st and 72nd Sessions, which have already been submitted, the information requested in the Memorandum adopted by the Governing Body, particularly under points I and II(a) of the questionnaire, and that it will indicate that Convention No. 171 and Recommendation No. 178 (77th Session) have also been submitted. It recalls in this connection that the authorities to which these instruments are to be submitted are the authorities empowered to legislate. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session have been submitted.

Syrian Arab Republic

With reference to its previous observation, the Committee notes with interest the information supplied by the Government in its report to the effect that the instruments adopted at the 65th, 69th (Convention No. 159), 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authority. In its previous comments the Committee noted the procedure under which the Ministry of Health, the Public Social Insurance Institution and the Ministry of Industry were requested to examine, respectively, Conventions Nos. 170 and 171 (77th Session) and to give their opinions on these instruments. It hopes that the Government will shortly indicate that these instruments, the instrument adopted at the 66th Session, and the remaining instruments adopted at the 69th (Recommendations Nos. 167 and 168), 70th, 77th and 78th Sessions have been submitted and that it will provide in this regard the information and documents requested in the Memorandum adopted by the Governing Body. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

United Republic of Tanzania

The Committee notes with regret that, this year once again, the Government has not replied to its previous observations. It hopes that it will shortly be able to state that it has submitted to the National Assembly the instruments adopted at the 72nd, 74th, 75th and 76th Sessions of the Conference, and the instruments adopted at the 66th, 67th and 68th Sessions which have been sent to the Ministry of Labour and Development. Lastly, it hopes that the Government will indicate the date on which the instruments adopted from the 54th to the 65th Sessions, and at the 69th, 70th and 71st Sessions were submitted to the Assembly. It would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and

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79th Sessions of the Conference have been submitted to the competent authorities.

Thailand

The Committee notes that the Government has not replied to its previous observation. It hopes that it will shortly indicate that the instruments adopted at the 74th, 75th, 76th, 77th and 78th Sessions of the Conference, which have been submitted to the Cabinet, have been submitted to Parliament. Furthermore, the Committee hopes that the instruments adopted at the 72nd Session will also be submitted. The Committee would be grateful if the Government would supply in the near future a copy of the document by which these instruments were submitted to Parliament. Furthermore, the Government is asked to indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Trinidad and Tobago

The Committee notes with regret that, this year once again, the Government has not replied to its previous observations. It hopes that it will shortly be in its position to state that the instruments adopted from the 74th to 76th Sessions of the Conference have been submitted to the competent authorities. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th and 79th Sessions of the Conference have been submitted to the competent authorities.

Uganda

Further to its previous comments, the Committee notes with satisfaction, according to the information supplied by the Government, that the instruments adopted at the 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities. The Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session have been submitted to the competent authorities.

Venezuela

The Committee notes that the Government has not replied to its previous observation. It hopes that it will indicate shortly that the instruments adopted at the 74th and 76th Sessions of the Conference have been submitted to the competent authorities.

In the absence of any other information in reply to its previous observation, the Committee hopes that the Government will shortly provide, with regard to the instruments adopted at the 70th and 72nd Sessions of the Conference, the information and documents requested in the Memorandum adopted by the Governing Body and that it will indicate

whether Convention No. 161 and Recommendation No. 171 (71st Session), and the instruments adopted at the 75th, 77th and 78th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

Yemen

The Committee notes that the Government has not replied to its previous observations. It hopes that it will shortly indicate that the instruments adopted at the 74th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session have been submitted.

Zaire

In its previous observation, the Committee noted the statement of a Government representative at the Conference Committee in 1992 that the procedure for submitting the instruments adopted from the 70th to 77th Sessions of the Conference to the competent authorities has begun, that the instruments adopted up to the 69th Session have been submitted only to the President of the Republic, and that after the work of the National Conference the instruments adopted will be submitted to both the President of the Republic and the National Assembly. The Committee also noted the discussion that followed the statement, and the Conference Committee's adopted conclusions. It notes that the Government has not replied to its previous observation. It hopes that the Government will soon be in a position to state that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities. The Committee also hopes that the Government will shortly be able to indicate that the instruments adopted at the 62nd and from the 66th to 69th Sessions of the Conference, which have already been submitted to the President of the Republic, have also been submitted to the National Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th Session of the Conference have been submitted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Albania, Angola, Austria, Azerbaijan, Bahamas, Bahrain, Belgium, Benin, Botswana, Bulgaria, Burkina Faso, Cameroon, Canada, Chad, Chile, China, Colombia, Comoros, Cuba, Cyprus, Dominican Republic, Estonia, Germany, Greece, Grenada, Guinea-Bissau, Hungary, Ireland, Israel, Jordan, Kuwait, Kyrgyzstan, Latvia, Lithuania, Mauritania, Republic of Moldova, Morocco, Nepal,

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Netherlands, Niger, Nigeria, Philippines, Qatar, Romania, Sao Tome and Principe, Senegal, Spain, Sri Lanka, Sudan, Switzerland, Ukraine, United Arab Emirates, United Kingdom, Uruguay, Zambia.

Appendix I. Information Supplied by Governments with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities

(31st to 79th Sessions of the International
Labour Conference, 1948-92)¹

Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31 to 70	71, 72, 74, 75, 76, 77, 78 and 79
Albania		78 and 79
Algeria	47 to 72	74, 75, 76, 77, 78 and 79
Angola	61 to 77	78 and 79
Antigua and Barbuda	68	69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
Argentina	31 to 79	-
Australia	31 to 79	-
Austria	31 to 77	78 and 79
Azerbaijan	79 (C 173)	79 (R 180)
Bahamas	61 to 76	77, 78 and 79
Bahrain	63 to 76	77, 78 and 79
Bangladesh	58 to 69	70, 71 72, 74, 75, 76, 77, 78 and 79

¹ The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Barbados	51 to 79	-
Belarus	37 to 79	-
Belgium	31 to 74, 75 and 77	76, 78 and 79
Belize	68	69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
Benin	45 to 74	75, 76, 77, 78 and 79
Bolivia	31 to 79	-
Botswana	64 to 78	79
Brazil	31 to 50, 51 (C 127; R 128, 129, 130, 131), 53 (R 133, 134), 54 to 62, 63 (C 148; R 156, 157), 64 (R 158, 159), 65, 66, 67 (C 154, 155; R 163, 164, 165) 68 (C 158; R 166), 69 to 77	51 (C 128), 52, 53 (C 129, 130), 63 (C 149), 64 (C 150, 151), 67 (C 156), 68 (C 157), 78 and 79
Bulgaria	31 to 76	77, 78 and 79
Burkina Faso	45 to 76	77, 78 and 79
Burundi	47 to 79	-
Cambodia	53, 54 and 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
Cameroon	44 to 68, 72 and 74	69, 70, 71, 75, 76, 77, 78 and 79
Canada	31 to 78	79
Cape Verde	65 to 79	-
Central African Republic	45 to 74	75, 76, 77, 78 and 79
Chad	45 to 74	75, 76, 77, 78 and 79
Chile	31 to 74, 76 and 77	75, 78 and 79

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
China	69 to 77	78 and 79
Colombia	31 to 70, 71 (C 160; R 170) 75 (C 167; R 175), 76 and 77 (C 170; R 177)	71 (C 161; R 171), 72, 74, 75 (C 168; R 176), 77 (C 171; R 178), 78 and 79
Comoros	65 to 78	79
Congo	45 to 53, 54 (C 131, 132), 55 (C 133, 134), 56, 58 (C 138; R 146), 59, 63 (C 149; R 157), 64 to 66 and 67 (C 154, 155)	54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 58 (C 137; R 145), 60, 61, 62, 63 (C 148; R 156), 67 (C 156; R 163, 164, 165), 68, 69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
Costa Rica	31 to 70, 71 (R 170, 171), 72 (R 172), 74 (R 173, 174), 75 (R 175, 176) 76 and 77 (R 177, 178)	71 (C 160, 161), 72 (C 162), 74 (C 163, 164, 165, 166), 75 (C 167, 168), 77 (C 170, 171), 78 and 79
Côte d'Ivoire	45 to 79	-
Cuba	31 to 78	79
Cyprus	45 to 77	78 and 79
Denmark	31 to 79	-
Djibouti	64, 65, 67, 71 and 72	66, 68, 69, 70, 74, 75, 76, 77, 78 and 79
Dominica	68 to 79	-
Dominican Republic	31 to 78	79
Ecuador	31 to 72 and 76	74, 75, 77, 78 and 79
Egypt	31 to 79	-
El Salvador	31 to 61, 63 (C 149), 64 (C 150), 69 (C 159; R 168), and 71 (C 160; R 170)	62, 63 (C 148; R 156, 157), 64 (C 151; R 158, 159), 65, 66, 67, 68, 69 (R 167), 70 71 (C 161; R 171), 72, 74, 75, 76, 77, 78 and 79
Equatorial Guinea	67 to 79	-

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Estonia	-	79
Ethiopia	31 to 79	-
Fiji	59 to 78	79
Finland	31 to 79	-
France	31 to 79	-
Gabon	45 to 72, 75 to 79	74
Germany	34 to 70, 71 (C 160; R 170), 72, 75 (C 167; R 175) and 76	71 (C 161; R 171), 74, 75 (C 168; R 176), 77, 78 and 79
Ghana	40 to 79	-
Greece	31 to 78	79
Grenada	66 to 79	-
Guatemala	31 to 70, 71 (C 160, 161; R 171), 72 and 75 (C 167; R 175)	71 (R 170), 74, 75 (C 168; R 176), 76, 77, 78 and 79
Guinea	43 to 75	76, 77, 78 and 79
Guinea-Bissau	63 to 78	79
Guyana	50 to 70	71, 72, 74, 75, 76, 77, 78 and 79
Haiti	31 to 66, 67 (C 156; R 165) 69, 70 to 74 and 75 (C 167)	67 (C 154, 155; R 163, 164), 68, 75 (C 168; R 175, 176), 76, 77, 78 and 79
Honduras	39 to 66, 68, 69, 71, 72, 74 (C 164, 165, 166; R 174) and 75 (C 167)	67, 70, 74 (C 163; R 173), 75 (C 168; R 175, 176), 76, 77, 78 and 79
Hungary	31 to 75	76, 77, 78 and 79
Iceland	31 to 79	-
India	31 to 72, 75 to 77	74, 78 and 79
Indonesia	33 to 79	-

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Iran, Islamic Republic of	31 to 79	-
Iraq	31 to 79	-
Ireland	31 to 71, 74, 75 and 77	72, 76, 78 and 79
Israel	32 to 77	78 and 79
Italy	31 to 76	77, 78 and 79
Jamaica	47 to 69	70, 71, 72, 74, 75, 76, 77, 78 and 79
Japan	35 to 79	-
Jordan	39 to 78	79
Kenya	48 to 68	69, 70, 71, 72, 74, 75, 76 77, 78 and 79
Korea, Republic of	79	-
Kuwait	45 to 72, 74, 75 (C 167; R 175), 76, 78 and 79	75 (C 168; R 176) and 77
Kyrgyzstan	-	79
Lao People's Democratic Republic	66 to 79	48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64 and 65
Latvia	-	79
Lebanon	31 (C 88, 89, 90; R 83), 32 (C 95, 98; R 85), 34 (C 100; R 90), 35 (C 102, 103), 40 (C 105, 106; R 103), 42 (C 111; R 111), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122; R 120, 122), 49 (C 123, 124), 50 (C 125, 126) and 51 to 66	31 (C 87), 32 (C 91, 92, 93, 94, 96, 97; R 84, 86, 87), 33, 34 (C 99; R 89, 91, 92), 35 (C 101; R 93, 94, 95), 36, 37, 38, 39, 40 (C 107; R 104), 41, 42 (C 110; R 110), 43, 44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (R 121), 49 (R 123, 124, 125), 50 (R 126, 127), 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78 and 79

SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Lesotho	66, 67, 68 (C 158; R 166), 71 and 72	68 (C 157), 69, 70, 74, 75, 76, 77, 78 and 79
Liberia	31 to 75	76, 77, 78 and 79
Libyan Arab Jamahiriya	35 to 72	74, 75, 76, 77, 78 and 79
Lithuania	-	79
Luxembourg	31 to 79	-
Madagascar	45 to 54, 56 to 70	55, 71, 72, 74, 75, 76, 77, 78 and 79
Malawi	49 to 54, 55 (C 133, 134), 56, 58 (C 137, 138), 59 (C 139, 140), 60 (C 141, 142), 61, 62 (C 146, 147), 63 (C 148, 149; R 157), 64 (C 150, 151), 65 (C 152, 153), 67 (C 154, 155, 156), 68, 69 (C 159; R 168), 71 (C 160, 161), 72 (C 162), 74 (C 163, 164, 165, 166) and 75 (C 167, 168)	55 (R 137, 138, 139, 140, 141, 142), 58 (R 145, 146), 59 (R 147, 148), 60 (C 143; R 149, 150, 151), 62 (C 145; R 153, 154, 155), 63 (R 156), 64 (R 158, 159), 65 (R 160, 161), 66, 67 (R 163, 164, 165), 69 (R 167), 70, 71 (R 170, 171), 72 (R 172), 74 (R 173, 174); 75 (R 175, 176), 76, 77, 78 and 79
Malaysia	41 to 76	77, 78 and 79
Mali	44 to 78	79
Malta	49 to 79	-
Mauritania	45 to 77	78 and 79
Mauritius	53 to 59, 60 (C 143; R 151), 61, 62, 63 (C 148; R 156), 64, 65 (C 153; R 161), 67, 68, 69 (C 159; R 168), 71 (C 161; R 171) and 72 to 77	60 (C 141, 142; R 149, 150), 63 (C 149; R 157), 65 (C 152; R 160), 66, 69 (R 167), 70, 71 (C 160; R 170), 78 and 79
Mexico	31 to 79	-
Moldova, Republic of	-	79
Mongolia	53 to 77	78 and 79

REPORT OF THE COMMITTEE OF EXPERTS

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Morocco	39 to 79	-
Mozambique	61 to 76 and 77 (C 170, 171)	77 (R 177, 178), 78 and 79
Myanmar	31 to 79	-
Namibia	78 and 79	-
Nepal	51 to 78	79
Netherlands	31 to 78	79
New Zealand	31 to 79	-
Nicaragua	40 to 79	-
Niger	45 to 78	79
Nigeria	45 to 77	78 and 79
Norway	31 to 79	-
Pakistan	31 to 74	75, 76, 77, 78 and 79
Panama	31 to 79	-
Papua New Guinea	61 to 65	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
Paraguay	40 to 67 and 69 (C 159; R 168)	68, 69 (R 167), 70, 71, 72, 74, 75, 76, 77, 78 and 79
Peru	31 to 69, 71, 76 and 77 (C 170; R 177)	70, 72, 74, 75, 77 (C 171; R 178), 78 and 79
Philippines	31 to 77	78 and 79
Poland	31 to 79	-
Portugal	31 to 79	-
Qatar	58 to 77	78 and 79
Romania	39 to 78	79
Russian Federation	37 to 79	-
Rwanda	47 to 79	-

SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Saint Lucia	-	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
San Marino	69 to 79	-
Sao Tome and Principe	68 to 76	77, 78 and 79
Saudi Arabia	61 to 79	-
Senegal	44 to 76	77, 78 and 79
Seychelles	-	63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
Sierra Leone	45 to 62 (C 145, 147; R 153, 155)	62 (C 146; R 154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78 and 79
Singapore	50 to 79	-
Slovakia	79	-
Slovenia	79	-
Solomon Islands	74	70, 71, 72, 75, 76, 77, 78 and 79
Somalia	45 to 75	76, 77, 78 and 79
Spain	39 to 62, 63 (C 148; R 156), 64 to 74, 75 (C 167; R 175), 76, 77 and 78	63 (C 149; R 157), 75 (C 168; R 176) and 79
Sri Lanka	31 to 74	75, 76, 77, 78 and 79
Sudan	39 to 78	79
Suriname	61 to 64, 65 (C 152, 153), 66, 67 (C 155, 156), 68 (C 157), 69, 70, 71 (C 161, R 171), 74, 75, 76 77 and 78	65 (R 160, 161), 67 (C 154; R 163, 164, 165), 68 (C 158, R 166), 71 (C 160, R 170), 72 and 79
Swaziland	60 to 76 and 77 (C 170; R 177)	77 (C 171; R 178), 78 and 79
Sweden	31 to 79	-

REPORT OF THE COMMITTEE OF EXPERTS

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Switzerland	31 to 78	79
Syrian Arab Republic	31 to 65, 67, 68, 69 (C 159), 71, 72, 74, 75 and 76	66, 69 (R 167, 168), 70, 77, 78 and 79
Tajikistan	-	79
Tanzania, United Republic of	46 to 65, 69 to 71	66, 67, 68, 72, 74, 75, 76, 77, 78 and 79
Thailand	31 to 71	72, 74, 75, 76, 77, 78 and 79
Togo	44 to 79	-
Trinidad and Tobago	47 to 72	74, 75, 76, 77, 78 and 79
Tunisia	39 to 79	-
Turkey	31 to 79	-
Uganda	47 to 78	79
Ukraine	37 to 79	-
United Arab Emirates	58 to 78	79
United Kingdom	31 to 79	-
United States	31 to 79	-
Uruguay	31 to 76, 77 (C 171; R 178), 78 and 79	77 (C 170; R 177)
Venezuela	31 to 70, 71 (C 160; R 170) and 72	71 (C 161; R 171), 74, 75, 76, 77, 78 and 79
Viet Nam	79	-
Yemen	49 to 72 and 75	74, 76, 77, 78 and 79
Yugoslavia	31 to 75	76, 77, 78 and 79
Zaire	45 to 69	70, 71, 72, 74, 75, 76, 77, 78, and 79
Zambia	49 to 77	78 and 79
Zimbabwe	66 to 79	-

Appendix II. Overall position of member States as at 25 February 1994

Sessions at which decisions were adopted	Number of States in which, according to information supplied by Government,			Number of States which were Members of the Organisation at the time of the session
	All the texts have been submitted	Some of these texts have been submitted	None of these texts have been submitted (including cases in which no information has been supplied by the Government)	
31 (June 1948)	58	2	-	60
32 (June 1949)	59	2	-	61
33 (June 1950)	61	1 ¹	2	63
34 (June 1951)	62	2	-	64
35 (June 1952)	64	2	-	66
36 (June 1953)	64	-	2	66
37 (June 1954)	67	1 ¹	2	69
38 (June 1955)	67	1	2	69
39 (June 1956)	74	-	2	76
40 (June 1957)	75	2	-	77
41 (April/May 1958)	77	1	1	79
42 (June 1958)	78	1	-	79
43 (June 1959)	78	1	1	80
44 (June 1960)	81	1	1	83
45 (June 1961)	99	2	-	101
46 (June 1962)	101	1	-	102
47 (June 1963)	107	1	-	108
48 (June/July 1964)	108	1	1	110
49 (June 1965)	112	1	1	114
50 (June 1966)	111	3	1	115
51 (June 1967)	117	-	-	117
52 (June 1968)	115	1 ¹	3	118
53 (June 1969)	119	1	1	121
54 (June 1970)	117	2	2	121
55 (October 1970)	116	3	2	121
56 (June 1971)	120	-	1	121
58 (June 1973)	118	3	2	123
59 (June 1974)	122	1	2	125
60 (June 1975)	121	2	3	126
61 (June 1976)	123	-	8	131
62 (October 1976)	123	1	8	132
63 (June 1977)	112	5	18	135
64 (June 1978)	125	4	7	136
65 (June 1979)	125	2	12	139

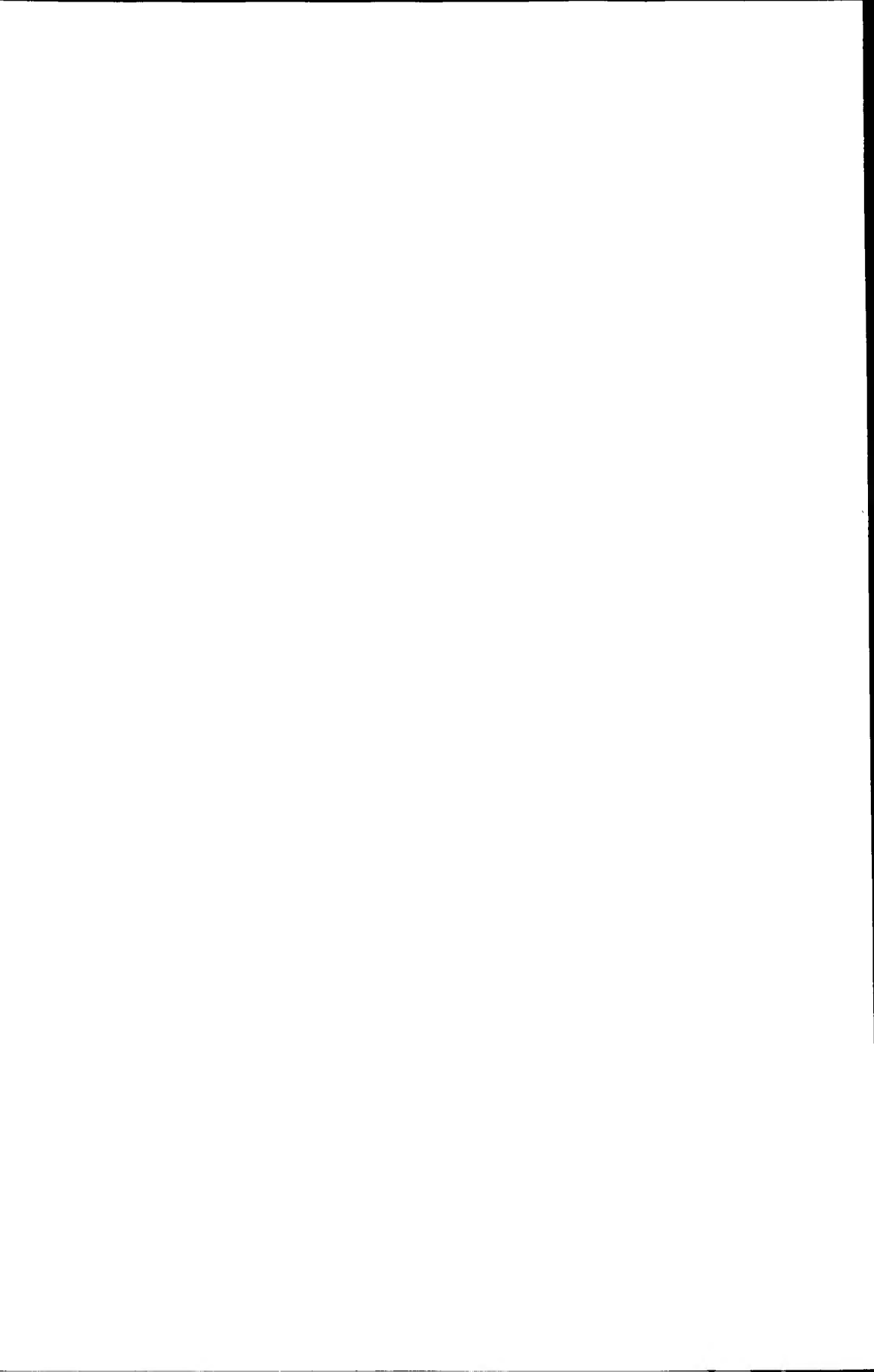
¹ At this session the Conference adopted one Recommendation only.

REPORT OF THE COMMITTEE OF EXPERTS

Sessions at which decisions were adopted	Number of States in which, according to information supplied by Government,			Number of States which were Members of the Organisation at the time of the session
	All the texts have been submitted	Some of these texts have been submitted	None of these texts have been submitted (including cases in which no information has been supplied by the Government)	
66 (June 1980)	121	— ¹	23	144
67 (June 1981)	126	6	13	145
68 (June 1982)	125	4	21	150
69 (June 1983)	126	3	21	150
70 (June 1984)	118	— ¹	32	150
71 (June 1985)	116	8	26	150
72 (June 1986)	118	1	31	150
74 (Sept.-Oct. 1987)	109	2	39	150
75 (June 1988)	113	6	31	150
76 (June 1989)	94	—	56	150
77 (June 1990)	76	1	73	150
78 (June 1991)	69	—	80	149
79 (June 1992)	55	1	101	157

¹ At this session the Conference adopted one Recommendation only.







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